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JJGJR.: 01-05

Paper No: __

FERNANDEZ & ASSOCIATES, LLP
PO BOX D
MENLO PARK CA 94026-6402

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JAN 27 2005
OFFICE OF PETITIONS

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JAN 26 2005
CANCELLED
OFFICE OF PETITIONS

In re Application of
Gunn, et al.
Application No. 10/916,839
Filed: 11 August, 2004
Attorney Docket No. LUX-PO34

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 27 October, 2004.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 11 August, 2004, without, *inter alia*, a fully executed oath or declaration; and

- on 7 October, 2004, the Office mailed a Notice to File Missing Parts;

- on 27 October, 2004, Petitioner filed, *inter alia*, the instant petition under 37 C.F.R. §1.47, with fee; an oath/declaration signed by named inventors–save for Bing Li (Mr. Li), the non-signing inventor–who have signed for themselves and on behalf of Mr. Li; and, *inter alia*, a narrative within the petition and a separate statement by Petitioner Dennis S. Fernandez (Reg. No. 34,160) and a statement of Robert Aris, Director of Finance, Luxtera Inc., the alleged assignee, which together represent that after a due diligence effort was made to ascertain the current address of the non-signing inventor the entire application (specification, claims, drawings) was transmitted to Mr. Li, but that shipment was not accepted;

- also included is a statement that the inventor nonetheless has failed to sign the oath or declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No: __

BING LI
7565 CHARMANT DR./#609
SAN DIEGO, CA 92122

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2 6 2005
OFFICE OF PETITIONS

In re Application of
Gunn, et al.
Application No. 10/916,839
Filed: 11 August, 2004
Attorney Docket No. LUX-PO34

ON PETITION

Dear Bing Li:

You are named as inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47, ¶a, Rules of Practice in Patent Cases.

Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application.

Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in

the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this correspondence may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
FERNANDEZ & ASSOCIATES, LLP
PO BOX D
MENLO PARK CA 94026-6402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LUXTERA, INC.; ATTN: BOB ARIS
1819 ASTON AVENUE, SUITE 102
CARLSBAD CA 92008

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OFFICE OF PETITIONS

In re Application of

Gunn, et al.

Application No. 10/916,839

Filed: August 11, 2004

Attorney Docket No. LUX-P034

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), June 23, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $700.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed March 10, 2006. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on June11, 2006.

The issue fee was received on June 23, 2006.

Form PTOL-85B, filed June 23, 2006, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Morgan & Finnegan, L.L.P.
3 World Financial Center
New York, NY 10281-2101

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MAY 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Christopher N. Larsen, et al.	:	
Application No. 10/916,842	:	DECISION ON PETITION
Filed: August 12, 2004	:	TO WITHDRAW
Attorney Docket No. 3978-4020US2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 26, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Joshua Harris on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Cognia Corporation**
117 East 55th Street
New York, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Fernandez & Associates, LLP
PO Box D
Menlo Park, CA 94026-6402

In re Application of
Gunn, Koumans, B. Li, G. Li, and Pinguet
Application No. 10/916,857
Filed: August 11, 2004
Attorney Docket No. LUX-P036
For: DOPING PROFILES IN PN DIODE OPTICAL MODULATORS

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed October 27, 2004.

The petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on August 11, 2004, with a declaration executed by all named inventors, except inventor Bing Li. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on October 12, 2004, requiring an executed oath or declaration and a surcharge for the late filing of a proper declaration. The instant petition and exhibits were filed on October 27, 2004.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (1) as set forth above.

As to item (1), the evidence provided with the instant petition does not demonstrate that petitioner made a diligent effort to locate inventor Bing Li. Although petitioner did attempt to present inventor Bing Li with a complete copy of the application papers, the tracking information indicates that the deliveries were unsuccessful. Petitioner must establish that a diligent effort was made to locate the non-signing inventors.

Under these circumstances, diligence would require more than sending the application papers to an address where the inventor has been determined to no longer reside. Petitioner must demonstrate that a thorough search of such other resources, such as the Internet, regional telephone directories and national registries produced no results. Any renewed petition filed must not only demonstrate that petitioner forwarded a copy of the application papers to the non-signing inventor's last known address, but that petitioner made a diligent effort to locate the non-signing inventor once it was clear that the non-signing inventor did not reside at the address petitioner had.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Fernandez & Associates, LLP
PO Box D
Menlo Park, CA 94026-6402

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FEB 17 2005

OFFICE OF PETITIONS

In re Application of :
Gunn, Koumans, B. Li, G. Li, and Pinguet :
Application No. 10/916,857 : ON PETITION
Filed: August 11, 2004 :
Attorney Docket No. LUX-P036 :
For: DOPING PROFILES IN PN DIODE OPTICAL MODULATORS

This is regarding the decision on petition mailed December 16, 2004

The decision is **vacated.**

The above-identified application was filed on August 11, 2004, with a declaration executed by all named inventors, except inventor Bing Li. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on October 12, 2004, requiring an executed oath or declaration and a surcharge for the late filing of a proper declaration. A petition under 37 CFR 1.47(a) and exhibits were filed on October 27, 2004. A decision dismissing the petition was rendered on December 16, 2004.

It is noted that a petition under 37 CFR 1.47(a) was also filed in application 10/917,927 on October 27, 2004, in which it was also argued that inventor Bing Li was unavailable to join the prosecution of the application. The petition under 37 CFR 1.47(a) filed in application 10/917,927 was granted by a decision mailed November 18, 2004. For the sake of consistency among applications with similar circumstances, the decision rendered on the petition under 37 CFR 1.47(a) in the above-cited application is being vacated so that the attorney who wrote the decision in application 10/917, 927 can also render a decision in application 10/916,857.

The application file is, therefore, being directed to Clifford Congo, Petitions Attorney, for a decision on the petition under 37 CFR 1.47(a) filed in application 10/916,857.

Further inquiries regarding this decision can be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FERNANDEZ & ASSOCIATES LLP
PO BOX D
MENLO PARK CA 94026-6204

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FEB 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Gunn, et al.	:	DECISION ACCORDING STATUS
Application No. 10/916,857	:	UNDER 37 CFR 1.47(a)
Filed: August 11, 2004	:	
Attorney Docket No. LUX-P036	:	

This is in response to the petition under 37 CFR 1.47, filed October 27, 2004, which is being treated as a petition under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on August 13, 2004, without a fully executed oath or declaration. Accordingly, on October 12, 2004, the Initial Patent Examination Division mailed a Notice to File Missing Parts, requiring an oath or declaration containing the signature of inventor Bing Li, together with a surcharge for its late filing.

In reply, applicants filed the instant petition on October 27, 2004, together with the petition fee and the surcharge for late filing of the declaration. The petition was dismissed in a decision mailed on December 16, 2004. That decision was then vacated in a decision mailed on February 17, 2005.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has attested that a copy of the application papers were sent to inventor Li on August 10, 2004, but that the delivery attempts failed. In support thereof, Rule 47 applicant has included a copy of a FedEx printout.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration previously submitted on August 13, 2004 has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 2874 for examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FERNANDEZ & ASSOCIATES LLP
PO BOX D
MENLO PARK CA 94026-6204

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FEB 2 2 2005

OFFICE OF PETITIONS

In re Application of Gunn, et al. Application No. 10/916,857 Filed: August 11, 2004 Attorney Docket No. LUX-P036	: : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47, filed October 27, 2004, which is being treated as a petition under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on August 13, 2004, without a fully executed oath or declaration. Accordingly, on October 12, 2004, the Initial Patent Examination Division mailed a Notice to File Missing Parts, requiring an oath or declaration containing the signature of inventor Bing Li, together with a surcharge for its late filing.

In reply, applicants filed the instant petition on October 27, 2004, together with the petition fee and the surcharge for late filing of the declaration. The petition was dismissed in a decision mailed on December 16, 2004. That decision was then vacated in a decision mailed on February 17, 2005.

REC'D FEB 2 5 2005

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DATE 2/25/05
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A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has attested that a copy of the application papers were sent to inventor Li on August 10, 2004, but that the delivery attempts failed. In support thereof, Rule 47 applicant has included a copy of a FedEx printout.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration previously submitted on August 13, 2004 has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 2874 for examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BING LI
7565 CHARMANT DR #609
SAN DIEGO 92122

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FEB 22 2005

OFFICE OF PETITIONS

In re Application of :
Lawrence C. Gunn, Roger Koumans, Bing :
Li, Guo Liang Li, Thierry J. Pinguet :
Application No. 10/916,857 :
Filed: August 11, 2004 :
Title: Doping Profiles in PN Diode
Optical Modulators

LETTER

Dear Mr. Li:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Dennis S. Fernandez
Fernandez & Associates
PO Box D
Menlo Park, CA 94026-6204
650-325-4999

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AMGEN INC.
1120 VETERANS BOULEVARD
SOUTH SAN FRANCISCO, CA 94080

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JUL 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Martin J. Harrison et al	:	
Application No. 10/916,868	:	ON PETITION
Filed: August 11, 2004	:	
Attorney Docket No. T03-012-1/US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 18, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 19, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAIL

NOV 0 8 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Ronald D. Slusky
Suite 5L
353 West 56th Street
New York NY 10019-3775

In re Application of:
Mei HAN, et al.
Application No. 10/916,870
Filed: August 12, 2004
For: **VIDEO SURVEILLANCE SYSTEM THAT DETECTS PREDEFINED BEHAVIORS BASED ON MOVEMENT THROUGH ZONE PATTERNS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed October 11, 2004.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The statements made in the petition show how the technology of the instant application directly contributes to the countering of terrorism.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the examiner for expedited action in its turn.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 02,2007

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/916,879 Patent No.: 6992398 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code COCX.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

Lynne A. Gurley
LYNNE GURLEY
SUPERVISORY PATENT EXAMINER
AU 2811, TC 2800
SPE

2811
Art Unit

Approved. J.H. 10/25/07

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Warren M. Farnworth

Patent No.: 6,992,398 B2

Issued: January 31, 2006

For: UNDERFILL AND ENCAPSULATION OF CARRIER SUBSTRATE-MOUNTED FLIP-CHIP COMPONENTS

Attorney Docket No.: 2269-3924.4US

VIA ELECTRONIC FILING

August 29, 2007

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR APPLICANT'S MISTAKES (37 C.F.R. § 1.323)

Attn.: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is noted that Applicant(s) errors appear in this patent of a typographical nature or character and correction thereof does not involve such changes in the patent as would constitute new matter or would require reexamination. A certificate of correction in the form attached hereto is requested.

Please send the Certificate to:

Name: Joseph A. Walkowski
Address: TraskBritt
P.O. Box 2550
Salt Lake City, Utah 84110

Patent No. 6,992,398 B2

The Commissioner is authorized to charge $100.00 to the TraskBritt Deposit Account No. 20-1469 for the fee as required by 37 C.F.R. § 1.20(a).

Attached hereto is Form PTO/SB/44, which is suitable for printing.

Respectfully submitted,

Joseph A. Walkowski
Registration No. 28,765
Attorney for Applicant(s)
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: August 29, 2007
JAW/csw

Attachment: PTO/SB/44

Document in ProLaw

PAGE 3/3 * RCVD AT 10/25/2007 5:45:12 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/13 * DNIS:2709990 * CSID:7033050725 * DURATION (mm-ss):01-42

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 02,2007

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/916,879 Patent No.: 6992398 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

LYNNE GURLEY
SUPERVISORY PATENT EXAMINER

SPE — 2811 **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 02,2007

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/916,879 Patent No.: 6992398 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

Lynne A. Gurley
LYNNE GURLEY
SUPERVISORY PATENT EXAMINER
AU 2811, TC 2800

SPE

2811
Art Unit

Approved. J.S. 10/25/07

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Warren M. Farnworth

Patent No.: 6,992,398 B2

Issued: January 31, 2006

For: UNDERFILL AND ENCAPSULATION OF CARRIER SUBSTRATE-MOUNTED FLIP-CHIP COMPONENTS

Attorney Docket No.: 2269-3924.4US

VIA ELECTRONIC FILING

August 29, 2007

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR APPLICANT'S MISTAKES (37 C.F.R. § 1.323)

Attn.: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is noted that Applicant(s) errors appear in this patent of a typographical nature or character and correction thereof does not involve such changes in the patent as would constitute new matter or would require reexamination. A certificate of correction in the form attached hereto is requested.

Please send the Certificate to:

Name: Joseph A. Walkowski
Address: TraskBritt
P.O. Box 2550
Salt Lake City, Utah 84110

Patent No. 6,992,398 B2

The Commissioner is authorized to charge $100.00 to the TraskBritt Deposit Account No. 20-1469 for the fee as required by 37 C.F.R. § 1.20(a).

Attached hereto is Form PTO/SB/44, which is suitable for printing.

Respectfully submitted,

Joseph A. Walkowski
Registration No. 28,765
Attorney for Applicant(s)
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: August 29, 2007
JAW/csw

Attachment: PTO/SB/44

Document in ProLaw

PAGE 3/3 * RCVD AT 10/25/2007 5:45:12 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/13 * DNIS:2709990 * CSID:7033050725 * DURATION (mm-ss):01-42

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FROM DIRECTORS OFFICE

MAR 0 4 2005

TECHNOLOGY CENTER 3600

William M. Hanlon, JR
YOUNG & BASILE, PC
3001 West Big Beaver Road
Suite 624
Troy, MI 48084-3107

In re application of	:	**DECISION ON PETITION**
Jessica M. Brezinski.	:	**TO MAKE SPECIAL**
Application No. 10/916,892	:	**(INFRINGEMENT)**
Filed: August 12, 2004	:	
For: ANIMAL RESTRAINING HARNESS		

This is a decision on the petition under 37 C.F.R § 1.102(d) filed January 28, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed January 28, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on December 29, 2003.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 02/16/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICES OF DENNIS W. BEECH
Suite C-2
19900 Beach Blvd
Huntington Beach, CA 92648

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JUL 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Ryan Hunter	:	
Application No. 10/916,915	:	DECISION GRANTING PETITION
Filed: August 12, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.	:	

This is a decision on the petition, filed April 24, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on August 10, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

This application is being forwarded to Technology Center Art Unit 3635 for examination in due course.

Kenya A. McLaughlin
Petitions Attorney
Office of Petition

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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19900 Beach Blvd
Huntington, Beach CA 92648

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JUL 20 2007

OFFICE OF PETITIONS

In re Application of

Ryan Hunter

Application No. 10/916,915

Filed: August 12, 2004

Attorney Docket No.

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed July 12, 2006. The final Office action set a shortened statutory period for reply of three months from its mailing date. A response was filed on December 12, 2006, with a request for an extension of time within the second month. An Advisory Action mailed January 5, 2007, advised that the response of December 12, 2006, failed to place the application in condition for allowance. No further responses were received within the allowable period and the application became abandoned on December 13, 2006. A Notice of Abandonment was mailed on January 24, 2007.

The Request for Continued Examination and amendment filed April 24, 2007, is noted and made of record.

The application file is being forwarded to Technology Center 3600, GAU 3635 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DENNIS W. BEECH (LAW OFFICE OF DENNIS W. BEECH)
P.O. BOX 519
MURRIETA CA 92564-0519

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of
Ryan Hunter
Application No. 10/916,915
Filed: August 12, 2004
For: Head Gasket For Internal Combustion Engines

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The extendable two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 15, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is September 16, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of 810.00; and (3) a proper statement of unintentional delay.

Petitioner has requested that the Office apply the insufficient fees of $245.00 submitted (November 14, 2008) towards the request for three-month extension of time to extend the reply period for submission of the appeal brief. The Office is refunding the $245.00 as the submission was insufficient to obtain a three-month extension of time. If petitioner desires an extension of time for the submission of the appeal brief a new request and appropriate fee will be required.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 3635 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Charlema Grant
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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SEP 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Bazarjani et al.	:	
Application No.: 10/916929	:	ON PETITION
Filing or 371(c) Date: 08/11/2004	:	
Attorney Docket Number:	:	
040224	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed August 4, 2009.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed December 23, 2008. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on March 29, 2009. A Notice of Abandonment was mailed July 6, 2009.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 2614 for processing of the Amendment filed with the petition in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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Ronald D. Slusky
Suite 5L
253 West Street
New York, NY 10019-3775

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Mei Han et al.	:	
Application No. 10/916,966	:	DECISION ON PETITION
Filed: August 12, 2004	:	TO WITHDRAW
Attorney Docket No. 03030-5	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 27, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Ronald D. Slusky, sole attorney of record. Ronald D. Slusky has been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision will be mailed to the address as indicated in the request to withdraw. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

There are no outstanding Office actions at this time.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Mei Han
21337 Glen Place, #5
Cupertino, CA 95014

cc: Jon Cook
Vidient Systems, Inc.
640 West California Avenue, Suite 220
Sunnyvale, CA 94086

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/916,966	08/12/2004	Mei Han	03030-5

CONFIRMATION NO. 2529

OC000000025850775

Ronald D. Slusky
Suite 5L
353 West 56th Street
New York, NY 10019-3775

Date Mailed: 09/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/27/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

K. Grabinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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IBM CORP. (WIP)
c/o WALDER INTELLECTUAL PROPERTY LAW, P.C.
P.O. BOX 832745
RICHARDSON TX 75083

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OFFICE OF PETITIONS

In re Application of	:	
Dement et al.	:	
Application No. 10/916969	:	ON PETITION
Filing Date: 08/12/2004	:	
Attorney Docket Number:	:	
AUS920040373US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 27, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

This application is being referred to Technology Center AU 2185 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Derek L. Woods
Attorney
Office of Petitions

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Recep Ismail Haritaoglu	: DECISION ON REQUEST FOR
Patent Number	: 7643991	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/916,975	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1546** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

11 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

In re Application of HAAKER et al. Application No.: 10/916,983 Filing Date: 11 August 2004 Attorney's Docket No.: SCHO0179 For: METHOD FOR DETERMINING WEIGHT-ING FACTORS FOR THE CALCULATION OF A COLOR VALUE OF TEXELS FOR A FOOTPRINT	DECISION ON PETITION UNDER 37 CFR 1.182

This is in response to applicant's "Petition to Convert" an application under 35 U.S.C. 371 to an application under 35 U.S.C. 111(a). The petition was filed in the United States Patent and Trademark Office (USPTO) on 25 October 2004 and is being treated as a petition under 37 CFR 1.182. Applicant requests that the above referenced application be converted from a national application filed under 35 U.S.C. 371 to a continuation application filed under U.S.C. 365.

BACKGROUND

On 09 September 2003, applicant filed international application PCT/EP03/10017, which claimed priority of an earlier German application filed 13 September 2002.

On 11 August 2004, applicant filed a Utility Patent Application Transmittal (Form PCT/SB/05) only for new nonprovisional applications under 37 CFR 1.53(b), which was accompanied by, *inter alia*, the utility application filing fee of $770, a specification and a declaration of the inventors. The specification stated, in the first sentence: "This application is a continuation of copending International Application No. PCT/EP03/10017, filed September 9, 2003, which designated the United States and was not published in English." The application was assigned serial no.10/916,983 and treated as a filing under 35 U.S.C. 371.

On 25 October 2004, Petitioner filed the instant Petition to Convert requesting that the utility application, mistakenly treated as a filing under 35 U.S.C. 371, be converted to an application filed under 35 U.S.C. 111(a), 37 CFR 1.53, 35 U.S.C. 365(c) and 35 U.S.C. 120.

DISCUSSION

A national application which requests treatment as a continuation of an earlier international application cannot be considered the national stage application of that international application, and under the present circumstances, the statement in the specification is an indication of papers filed under 35 U.S.C. 111(a).

The transmittal letter filed on 11 August 2004 did not identify the application as a national stage application being filed under 35 U.S.C. 371. The specification, filed on the same date, in the first line identifies the papers as a "continuation of co-pending International Application PCT/EP03/10017, filed on September 9, 2003, which designated the United States

and was not published in English". Accordingly, the papers were treated as a filing under 35 U.S.C. 111. Since the original papers deposited on 11 August 2004 did not seek treatment under 35 U.S.C. 371, the application was deemed to have been filed under 35 U.S.C. 111 and international application PCT/EP03/10017 is now abandoned with respect to the United States.

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 10/916,983) and the international application (PCT/EP03/10017) designating the United States were copending on 11 August 2004.

CONCLUSION

U.S. application 10/916,983 is **NOT** the national stage application of international application PCT/EP03/10017. Applicants have amended the first sentence of the specification accordingly.

The specification and claims filed on 11 August 2004 met the requirements for granting a filing date for a filing under 35 U.S.C. 111(a) of 11 August 2004. Accordingly, the petition to accept the papers as a filing under 35 U.S.C. 111(a) with an filing date of 11 August 2004 is **MOOT**.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PVF -- APPLE INC.
c/o PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: David K. Ferguson	: DECISION ON REQUEST FOR
Patent Number	: 7634587	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/916,988	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **488** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Ronald D. Slusky
Suite 5L
253 West Street
New York, NY 10019-3775

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Mei Han et al.	:	
Application No. 10/917,009	:	DECISION ON PETITION
Filed: August 12, 2004	:	TO WITHDRAW
Attorney Docket No. 03030-4	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 27, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Ronald D. Slusky, sole attorney of record. Ronald D. Slusky has been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision will be mailed to the address as indicated in the request to withdraw. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

There are no outstanding Office actions at this time.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Mei Han
21337 Glen Place, #5
Cupertino, CA 95014

cc: Jon Cook
Vidient Systems, Inc.
640 West California Avenue, Suite 220
Sunnyvale, CA 94086

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/917,009	08/12/2004	Mei Han	03030-4

CONFIRMATION NO. 1484

OC000000025850865

Ronald D. Slusky, Registered Patent Attorney
Suite 5L
353 West 56th Street
New York, NY 10019-3775

Date Mailed: 09/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/27/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

K Grabiset

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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www.uspto.gov
DIW Oct-05

SALAH AHMED MOHAMED ELMOSELHY
6 ZENABDEN ST.
SYDAZENAB, CAIRO 11461
CAIRO EG EGYPT

COPY MAILED

OCT 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Salah Ahmed Mohamed Elmoselhy	:	DECISION ON PETITION
Application No. 10/917,011	:	
Filed: 13 August, 2004	:	
For: SIGMA SIGMA-SPRINGS FOR	:	
SUSPENSION SYSTEMS	:	

This is a decision on the paper filed on 30 September, 2005, styled as a petition under 37 CFR 1.137(a),[1] which, in the absence of a fee, is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.[2]

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are

---

[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[2] In the absence of the petition fee, which is required by law, the PTO can only treat the instant petition as a (feeless 1.181) petition to withdraw the holding of abandonment. See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

37 CFR 1.135 states, in pertinent part:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and 1.136, the application will become abandoned unless an Office action indicates otherwise
>
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) must include such complete and proper reply as the condition of the application may require.

In the instant case it is clear that petitioner did not file a timely reply in that the correct address for sending correspondence to the Office was not used. As the showing of record is that the correspondence was not received in the Office due to an error on the part of petitioner in providing an incorrect address for the USPTO, the holding of abandonment will not be withdrawn.

Additionally, with regard to the change in telephone numbers, petitioner chose to prosecute the application *pro se*, and Petitioner was not forced, but rather made a conscious decision to prosecute the application *pro se*, and therefore must be held accountable for his actions, or lack thereof, before the Office. There are numerous resources available to petitioner, as to the others who have chosen this path of prosecution, to obtain the necessary information to prosecute the application before the Office. As such, petitioner could have checked the USPTO's Internet site to determine a current telephone number for the examiner.

As the showing of record does not merit withdrawal of the holding of abandonment, the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing

application. In a nonprovisional utility or plant application filed on or after 8 June, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition to withdraw the holding of abandonment," or as discussed below "Renewed Petition under 37 CFR 1.137(b)."

The application became abandoned on 5 June, 2005, for failure to timely file a response to the non-final Office action mailed on 4 March, 2004, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

It is noted that petitioner utilized the form for a petition under 37 CFR 1.137(f), although petitioner states that revival of an unavoidably abandoned application is requested. As no nonpublication request was filed in the instant application, a petition under 37 CFR 1.137(f) is clearly inappropriate, and the petition will not be treated under 37 CFR 1.137(f).

Petitioner asserts that he attempted to file a timely response to the Office action mailed on 4 March, 2005. Specifically, petitioner provides evidence of a Federal Express envelope, which purportedly contained petitioner's reply, that mailed on 31 August, 2005, but which Federal Express was unable to deliver to the USPTO. Petitioner also states that he was unable to contact the examiner by telephone because the telephone numbers at the Office had changed. Petitioner has included a copy of the Federal Express International Air-Waybill label and a letter from Federal Express to petitioner, stated 28 September, 2005, stating the shipment could not be delivered.

A review of the papers received on 30 September, 2005, reveals that the applicant's Federal Express Air-Waybill lists the delivery address as: MR MELODY M. BURCH, COMMISSIONER FOR PATENTS OF THE UNITED states patent and trademark office assistant commissioner for patents box patent application WASHINGTON DC 20231 USA."

Petitioner is reminded that, effective 4 April, 2005, the USPTO no longer accepts correspondence addressed to the United States Patent and Trademark Office, Washington, D.C. 20231.[3] Rather, all correspondence must be sent to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. As such, the showing of record is that petitioner did not use the proper Office correspondence address on the Federal Express mailing.

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[3] 1292 O.G. 186

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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SALAH AHMED MOHAMED ELMOSELHY
6 ZENABDEN ST.
SYDAZENAB, CAIRO 11461
CAIRO EG EGYPT

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Salah Ahmed Mohamed Elmoselhy	:	LETTER DISMISSING PETITION
Application No. 10/917,011	:	
Filed: 13 August, 2004	:	
For: SIGMA SIGMA-SPRINGS FOR	:	
SUSPENSION SYSTEMS	:	

This is a decision on the paper filed on 13 December, 2005, styled as a petition under 37 CFR 1.137(b).[1]

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)"

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application became abandoned on 5 June, 2005, for failure to timely file a response to the non-final Office action mailed on 4 March, 2004, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The petition filed on 30 September, 2005, was dismissed on 21 October, 2005. The filing of the present petition precedes the mailing of Notice of Abandonment.

The petition lacks item (2). A review of Office financial records reveals that petitioner's check for the petition fee was returned for insufficient funds as of 10 January, 2006. As patent and trademark fees are required to be paid in advance, the petition form as filed does not include the required fee. The PTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.[2] Any petition filed must be accompanied by the fee required by law.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[2] See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

UNITED STATES PATENT AND TRADEMARK OFFICE

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SALAH AHMED MOHAMED ELMOSELHY
6 ZENABDEN ST.
SYDAZENAB, CAIRO 11461
CAIRO EG EGYPT

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MAR 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Salah Ahmed Mohamed Elmoselhy	:	LETTER DISMISSING PETITION
Application No. 10/917,011	:	
Filed: 13 August, 2004	:	
For: SIGMA SIGMA-SPRINGS FOR	:	
SUSPENSION SYSTEMS	:	

This is a decision on the paper filed on 14 February, 2006, styled as a petition under 37 CFR 1.137(b).[1]

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)"

The application became abandoned on 5 June, 2005, for failure to timely file a response to the non-final Office action mailed on 4 March, 2004, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The petition filed on 30 September, 2005, was dismissed on 21 October, 2005. The filing of the present petition precedes the mailing of Notice of Abandonment. The paper styled as a petition filed on 13 December, 2005, was dismissed on 27 January, 2006.

The petition lacks item (2). No fee payment has been included with the paper styled as a renewed petition. As patent and trademark fees are required to be paid in advance, the petition form as filed does not include the required fee. The PTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.[2] **Any petition filed must be accompanied by the fee required by law.**

Petitioner request the Office inform him of which of five checks were returned for insufficient funds. A review of Office records indicates that all five (5) of the checks referenced in the present petition were returned as unpaid.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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[2] See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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6 ZENABDEN ST.
SYDAZENAB, CAIRO 11461
CAIRO EG EGYPT

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JUN 1 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Salah Ahmed Mohamed Elmoselhy	:	LETTER DISMISSING PETITION
Application No. 10/917,011	:	
Filed: 13 August, 2004	:	
For: SIGMA SIGMA-SPRINGS FOR	:	
SUSPENSION SYSTEMS	:	

This is a decision on the paper filed on 16 May, 2006, styled as a renewed petition under 37 CFR 1.137(b).[1]

The petition is again **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)"

The application became abandoned on 5 June, 2005, for failure to timely file a response to the non-final Office action mailed on 4 March, 2004, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The petition filed on 30 September, 2005, was dismissed on 21 October, 2005. The filing of the present petition precedes the mailing of Notice of Abandonment. The paper styled as a petition filed on 13 December, 2005, was dismissed on 27 January, 2006. The paper styled as a petition filed on 14 February, 2006, was dismissed on 27 March, 2006.

The petition lacks item (2). No fee payment has been included with the paper styled as a renewed petition. As patent and trademark fees are required to be paid in advance, the petition form as filed does not include the required fee. The PTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.[2] **Any petition filed must be accompanied by the fee required by law.**

Petitioner again request the Office inform him of which of five checks were returned for insufficient funds. Petitioner was previously informed that a review of Office records indicates that all five (5) of the checks referenced in the present petition were returned as unpaid. No new evidence has been presented in the instant communication.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

---

[2] See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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LALLY & LALLY LLP
PO BOX 684749
AUSTIN TX 78768-4749

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JUL 02 2007

OFFICE OF PETITIONS

In re Application of
Raman N. Dewan
Application No. 10/917,020
Filed: August 12, 2004
Attorney Docket No.: RND.5102A

ON PETITION

This is a decision on the petition filed February 21, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed April 7, 2006. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned July 8, 2006. Accordingly, a Notice of Abandonment was mailed on November 15, 2006.

This matter is being referred to Technology Center 2612 for appropriate action on the amendment filed February 21, 2007.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/23/2007 **Paper No.:** _____

TO SPE OF : ART UNIT 2800 (2881)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,173,265

Attn: James Leybourne

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and forward within 7 days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ok to enter dependency changes to claims 7 & 8, from 3 to 6 as requested in C of C?

Thank You For Your Assistance

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved In Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

OK to enter dependency changes to claims 7 & 8 from 3 to 6 as requested in certificate of correction.
VMsahn

SPE Art AU 2881

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

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APR 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Salvati et al.	:	
Application No. 10/917,031	:	DECISION GRANTING PETITION
Filed: August 12, 2004	:	
Attorney Docket No. LD0192B Div 1	:	

This is a decision on the petition, filed December 27, 2004 (certificate of mailing dated December 21, 2004), requesting that the above-identified application be accorded a filing date of August 12, 2004, with pages 110, 343-362, and 530-544 of the specification as part of the original disclosure.

On August 12, 2004, applicants filed the above-identified application. On October 21, 2004, the Office mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of August 12, 2004, and advising applicants that pages 110, 343-362, and 530-544 of the specification appeared to have been omitted.

In response, on December 27, 2004 (certificate of mailing dated December 21, 2004), applicants filed, *inter alia*, the present petition, a copy of the specification, including pages 110, 343-362, and 530-544, and a copy of applicants' postcard receipt acknowledging receipt of 762 pages of specification on August 12, 2004.

Upon review of the record, pages 110, 343-362, and 530-544 of the specification, deposited on August 12, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on August 12, 2004, included pages 110, 343-362, and 530-544 of the specification, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including pages 110, 343-362, and 530-544 of the specification,

was complete on filing and will be granted a filing date of August 12, 2004.

Accordingly, the petition is granted.

The Notice of Omitted Item(s) was sent in error and is hereby vacated. No petition fee is necessary. The $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 19-3880.

The Office of Initial Patent Examination is directed **to accord the application a filing date of August 12, 2004**, using pages 1-109, 111-342, 363-529, and 545-762 of the specification submitted on that date, and pages 110, 343-362, and 530-544 of the specification submitted on December 27, 2004.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No.

LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

COPY MAILED
SEP 29 2008

In re Application of	:	
Salvati et al.	:	DECISION ON APPLICATION
Application No. 10/917,031	:	FOR
Filed: August 12, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. LD0192B DIV1	:	

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT UNDER § 1.705(B)" filed August 19, 2008. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred sixty-two (362) days to four hundred thirty-eight (438) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred thirty-eight (438) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On May 21, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 362 days. On August 19, 2008, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants request removal of the period of reduction of 76 days for applicant delay. Applicants argue that the Notice of Omitted Items was mailed in error and that all

[1] PALM records indicate that the Issue Fee payment was received on August 19, 2008.

requirements for filing an application were fulfilled on August 12, 2004.

The record supports a conclusion that the patent issuing from this application is not subject to a terminal disclaimer.

Removal of the period of reduction of 76 days is warranted, but not for the reasons stated by applicants. A review of the record reveals that applicants' response to the Notice of Omitted Item in a Nonprovisional Application mailed October 21, 2004, was received in the Office on December 27, 2004. This response was complete. As such, the response was filed inside the three-month period under 37 CFR 1.704(b). Applicants did not fail to engage in reasonable efforts to conclude processing the application by delaying in replying to the Notice of Omitted Item in a Nonprovisional Application.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is four hundred thirty-eight (438) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Data Management has been advised of this decision. The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PALM Screen

Day : Sunday
Date: 9/21/2008

PALM INTRANET

Time: 19:40:47

PTA Calculations for Application: 10/917031			
Application Filing Date:	08/12/2004	PTO Delay (PTO):	456
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	94
Post-Issue Petitions:	0	Total PTA (days):	438
PTO Delay Adjustment:	76		

File Contents History

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86	09/21/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	76		
71	05/21/2008	MAIL NOTICE OF ALLOWANCE			
70	05/17/2008	ISSUE REVISION COMPLETED			
69	05/17/2008	DOCUMENT VERIFICATION			
68	05/12/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
67	05/12/2008	CASE DOCKETED TO EXAMINER IN GAU			
66	05/12/2008	EXAMINER'S AMENDMENT COMMUNICATION			
65	05/12/2008	NOTICE OF ALLOWABILITY			
64	03/15/2008	DATE FORWARDED TO EXAMINER			
63	02/27/2008	RESPONSE AFTER NON-FINAL ACTION			
62	11/28/2007	ELECTRONIC REVIEW			
61	11/27/2007	EMAIL NOTIFICATION			
60	11/27/2007	MAIL NON-FINAL REJECTION			
59	11/20/2007	NON-FINAL REJECTION			
55	10/13/2007	DATE FORWARDED TO EXAMINER			
54	10/10/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
53	10/13/2007	DATE FORWARDED TO EXAMINER			
52	10/10/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
51	10/13/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
50	10/10/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
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48	09/06/2007	EMAIL NOTIFICATION			
47	09/06/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL			

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46	08/28/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
45	08/24/2007	MAIL FINAL REJECTION (PTOL - 326)			
44	08/23/2007	FINAL REJECTION			
43	07/02/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	07/20/2007	CASE DOCKETED TO EXAMINER IN GAU			
41	07/02/2007	REFERENCE CAPTURE ON IDS			
40	07/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		18	37
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38	06/20/2007	DATE FORWARDED TO EXAMINER			
37	06/14/2007	RESPONSE AFTER NON-FINAL ACTION			
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35	03/15/2007	NON-FINAL REJECTION			
34	02/15/2007	DATE FORWARDED TO EXAMINER			
33	02/09/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
32	10/10/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31.7	10/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	10/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	01/11/2007	MAIL RESTRICTION REQUIREMENT	456		-1
29	04/11/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	01/08/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
27	12/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
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23	12/18/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22.7	04/11/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	04/11/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	08/12/2004	PRELIMINARY AMENDMENT			

20	11/16/2005	TRANSFER INQUIRY TO GAU			
19	11/15/2005	APPLICATION RETURN FROM OIPE			
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16	11/15/2005	APPLICATION IS NOW COMPLETE			
15	10/21/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
14	11/15/2005	APPLICATION RETURN TO OIPE			
13	11/15/2005	APPLICATION DISPATCHED FROM OIPE			
12	11/15/2005	APPLICATION IS NOW COMPLETE			
11	04/07/2005	ADDITIONAL APPLICATION FILING FEES		76	6
10	04/07/2005	OMMITED SPECIFICATION PAGES. APPLICANT HAS PETITIONED THAT THE FILING DATE NOT BE CHANGED AND THE P			
9	04/07/2005	MAIL-PETITION DECISION - GRANTED			
8	12/27/2004	PETITION ENTERED			
7	12/27/2004	WORKFLOW INCOMING PETITION IFW			
6	10/21/2004	NOTICE OF OMITTED ITEMS			
4	09/28/2004	CLEARED BY OIPE CSR			
3	09/28/2004	CASE CLASSIFIED BY OIPE			
2	09/10/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/12/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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MENLO PARK, CA 94025

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AUG 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Grueger et al.	:	
Application No. 10/917,049	:	DECISION
Filed: August 11, 2004	:	ON PETITION
Atty Docket No. SCHO0180	:	
	:	

This is a decision on the PETITION TO CONVERT, filed October 25, 2004, requesting that the instant application be treated as a continuation of international PCT application PCT/EP02/01410, filed on February 11, 2002, which designated the United States.

The petition is **DISMISSED AS MOOT**.

As indicated in the Official Filing Receipt mailed October 12, 2004 (copy enclosed), the instant application has been treated as continuation of international PCT application PCT/EP02/01410. The omission of the international application number on the Utility Application Transmittal is immaterial. Applicant has timely included the specific reference to the international application required under 37 CFR 1.78(a)(2).

Receipt of the $130 fee offered for submission of an English translation is acknowledged. However, the fee is unnecessary as the specification was originally filed in English. Accordingly, the fee will be refunded.

This application will be examined in Technology Center Art Unit 2814 in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Filing Receipt mailed October 12, 2004

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Ronald D. Slusky
Suite 5L
353 West 56th Street
New York, NY 10019-3775

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DEC 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Mei Han et al.	:	
Application No. 10/917,063	:	DECISION ON PETITION
Filed: August 12, 2004	:	TO WITHDRAW
Attorney Docket No. 03030-6	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 27, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Ronald D. Slusky on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Mei Han**
21337 Glen Place, #5
Cupertino, CA 95014

cc: **Jon Cook**
Vidient Systems, Inc.
640 West California Ave.
Suite 220
Sunnyvale, CA 94086

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/917,063	08/12/2004	Mei Han	03030-6

CONFIRMATION NO. 2669

POWER OF ATTORNEY NOTICE

Ronald D. Slusky, Registered Patent Attorney
Suite 5L
353 West 56th Street
New York, NY 10019-3775

OC000000027368884

Date Mailed: 12/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/27/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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XILINX, INC.
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR.
SAN JOSE CA 95124

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JUL 28 2008

In re Application of	:	
Cameron D. Patterson et al	:	
Application No. 10/917,064	:	DECISION DISMISSING PETITION
Filed: August 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. X-1468-2 US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 1, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until July 25, 2008. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded to Account No. 24-0040 as requested in the request for refund submitted on July 22, 2008.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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NOV 0 9 2004

DIRECTOR
TECHNOLOGY CENTER 2600

TOLER & LARSON & ABEL L.L.P.
5000 PLAZA ON THE LAKE STE 265
AUSTIN TX 78746

In re Application of :
Russell W. WHITE :
Application No. 10/917,065 :
Filed: August 12, 2004 :
For: **PEDOMETER SYSTEM AND METHOD OF USE** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed October 15, 2004, under 37 CFR §1.102(d) to make the application special and treated as pursuant to MPEP §708.02, section II (Infringement).

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Geoffrey J. Hulten	: DECISION ON REQUEST FOR
Patent Number	: 7660865	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/917,077	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **907** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 05/18/2010

Applicant : Geoffrey J. Hulten
Patent Number : 7660865
Issue Date : 02/09/2010
Application No : 10/917,077
Filed : 08/12/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **990** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/917,127	08/13/2004	Venkatesan Manivannan	137063	1591

6147 7590 11/19/2008
GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

EXAMINER
KOSLOW, CAROL M

ART UNIT	PAPER NUMBER
1755	

NOTIFICATION DATE	DELIVERY MODE
11/19/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ldocket@crd.ge.com
rosssr@crd.ge.com
parkskl@crd.ge.com

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081028

DATE : October 28, 2008

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction on Patent No.: 7,208,103

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/J.A. LORENGO/
Supervisory Patent Examiner, Art Unit 1793

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CAMPBELL STEPHENSON ASCOLESE, LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN TX 78759

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OFFICE OF PETITIONS

In re Application of	:	
Weir et al.	:	
Application No. 10/917,144	:	DECISION ON PETITION
Filed: 13 August, 2004	:	
Attorney Docket No. EEStor 200	:	
	:	

This is a decision on the petition filed on 5 August, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application. This is also a decision on the petition to expedite handling of the present petition under 37 CFR 1.182.

The petition is **GRANTED**.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application became abandoned on 16 January, 2005, for failure to timely file a response to the Notice to File Corrected Application Papers mailed on 15 November, 2004, which set a two (2) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

The present petition is accompanied by replacement claims commencing on a separate sheet.

The petition fee due under 37 CFR 1.137(b) of $750.00 will be assessed to counsel's deposit account, No. 50-2306.

Receipt of the Power of Attorney and Correspondence Address Indication Form is acknowledged.

This application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CAMPBELL STEPHENSON ASCOLESE, LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

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DEC 0 7 2006
OFFICE OF PETITIONS

In re Application of	:	
Richard Dean Weir et al	:	
Application No. 10/917,144	:	DECISION ON PETITION
Filed: August 13, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. EEStor 200	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 13, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor Richard Dean Weir stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2831 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Julio Angel Navarro	:	
Application No. 10/917,151	:	ON PETITION
Filed: August 12, 2004	:	
Attorney Docket No. 7784-000588	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed January 4, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the above-identified application became abandoned on February 5, 2007.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2821 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Mark D. Elchuk
P.O. Box 828
Bloomfield Hills, MI 48303

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Maya Rani Gupta	: DECISION ON REQUEST FOR
Patent Number	: 7623268	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/917,160	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1470** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LAWRENCE BERKELEY NATIONAL LABORATORY
ONE CYCLOTRON ROAD, MAIL STOP 90B
UNIVERSITY OF CALIFORNIA
BERKELEY, CA 94720

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Duo Wang :
Application No. 10/917,161 : ON PETITION
Filed: August 11, 2004 :
Attorney Docket No. 1B-1946 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit replacement drawings on or before July 28, 2006 in reply to the Notice of Allowability, mailed April 28, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on July 29, 2006. A Notice of Abandonment was mailed on September 5, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of replacement drawings; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of April 28, 2006 is accepted as being unintentionally delayed.

This application is being referred to Publishing Division.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2318.

Frances Hicks
Petitions Examiner
Office of Petitions

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APR 16 2010

OFFICE OF PETITIONS

INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

In re Application of	:	
Rothman et al.	:	
Application No. 10/917164	:	DECISION ON
Filing or 371(c) Date: 08/11/2004	:	PETITION
Attorney Docket Number:	:	
42P18660	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed June 18, 2008.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 13, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 13, 2007. Accordingly, the date of abandonment of this application is February 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and the publication fee; (2) the petition fee; and (3) a proper statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This application is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: JOHN D. STUTMAN-HORN
4040 LAFAYETTE CENTER DRIVE
CHANTILLY, VA 20151

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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Robert E. Cypher	: DECISION ON REQUEST FOR
Patent Number	: 7607069	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/917,167	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1366** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Ana Martinez	: DECISION ON REQUEST FOR
Patent Number	: 7666885	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/917,175	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **257** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DONALD E. EGAN
273 STONEGATE ROAD
CLARENDON HILLS, IL 60514

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MAR 2 5 2009

OFFICE OF PETITIONS

In re Application of :
Srinivas Veeramasuneni, et. al. :
Application No. 10/917,177 : ON PETITION
Filed: August 12, 2004 :
Attorney Docket No. USG-3688 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 19, 2009, to revive the above-identified application.

The application became abandoned for failure to file a proper response to the final Office action mailed August 5, 2008.

Since no Statement under 37 CFR 3.73(b) has been submitted, the Revocation and Power of Attorney filed on February 19, 2009 has not been accepted. However, in accordance with 37 CFR 1.34(a), the signature of Carole A. Mickelson appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay was unintentional, the statement is accepted as constituting a certification of unintentional delay under 37 CFR 10.18. Thus, the statement given in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) with the $810 fee, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $1,110 for a three months extension of time filed on February 19, 2009. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Accordingly, since the $1,110 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

If petitioner desires to receive future correspondence regarding this application, compliance with 37 CFR 3.73(b) must be satisfied. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence will be directed solely to the address of record until otherwise instructed.

This application file is being referred to Technology Center Art Unit 1791 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Carole A. Mickelson
300 South Wacker Drive, 25th Floor
Chicago, IL 60606

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/917,177	08/12/2004	Srinivas Veeramasuneni	USG-3688

CONFIRMATION NO. 2485

IMPROPER CPOA LETTER

32983
DONALD E. EGAN
273 STONEGATE ROAD
CLARENDON HILLS, IL 60514

OC000000035140497

Date Mailed: 03/24/2009

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/19/2009. The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Ronald D. Slusky
Suite 5L
353 West 56th Street
New York NY 10019-3775

MAIL

JAN 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Mei HAN, et al.
Application No. 10/917,201
Filed: August 12, 2004
For: **VIDEO SURVEILLANCE SYSTEM IN WHICH TRAJECTORY HYPOTHESIS SPAWNING ALLOWS FOR TRAJECTORY SPLITTING AND/OR MERGING**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed December 8, 2004.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The statements made in the petition show how the technology of the instant application directly contributes to the countering of terrorism.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the examiner for expedited action in its turn.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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FERNANDEZ & ASSOCIATES, LLP
PO BOX D
MENLO PARK CA 94026-6402

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MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of
Lawrence C. Gunn et al.
Application No. 10/917,204
Deposited: August 11, 2004
Attorney Docket No: LUX-2033

ON PETITION

This is a decision on the petition allegedly filed March 2, 2005 under 37 CFR 1.47.

The petition is **DISMISSED**.

The official file only includes a copy of the statements in support of the "petition" and the FEDEX information regarding the attempted delivery of a package to joint inventor Bing Li however, no petition under 37 CFR 1.47 was accompanied by the other documents.

Until a complete petition has been submitted, this matter under 37 CFR 1.47 cannot be treated on the merits and will not receive any consideration.

The requested materials should be filed with the Office of Petitions within two months from the mail date of this decision, after which time if no response is filed, the application will be forwarded to the Office of Initial Patent Examination and the proceedings terminated. A supplement to the documents submitted March 2, 2005 should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FERNANDEZ & ASSOCIATES, LLP
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OFFICE OF PETITIONS

In re Application of :
Lawrence C. Gunn et al. :
Application No. 10/917,204 : ON PETITION
Deposited: August 11, 2004 :
Attorney Docket No: LUX-2033 :

This is in response to the petition under 37 CFR 1.47(a), filed March 23, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on August 11, 2004 naming Lawrence C. Gunn, Roger Koumans, Bing Li, Guo Liang Li and Thierry J. Pinguet as joint inventors, and signed by all inventors except Bing Li. Supporting documents for a petition under 37 CFR 1.47(a) were filed on March 2, 2005. It did not appear that the actual petition was filed on March 2, 2005 and as a result, the petition could not be treated under 37 CFR 1.47(a) and thus was dismissed.

Petitioners seek status under 37 CFR 1.47(a) because joint inventor Bing Li "could not be reached after diligent effort". Petitioners claim that several attempts to present Mr. Li with the "papers" at his last known address, had failed. In support, petitioners submit the FEDEX tracking which shows that FEDEX attempted delivery but was unsuccessful and ultimately returned the package to the sender. A review of the materials submitted in support of the claim, indicate that FEDEX also provided a notation that per the manager, the recipient moved and left no forwarding address or phone number.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and
(4) a statement of the last known address of the non-signing inventor.

The present petition lacks items (1).

Petitioners must present a showing that diligent efforts have been made to locate the non-signing inventor.[1] The evidence shows that Mr. Li no longer lives at the last known address to which the application materials were sent, and subsequently returned as undeliverable. Petitioners must however provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate Mr. Li, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him, send or give a copy of the application papers to him, and request that he sign and return the declaration. If repeated attempts to contact Mr. Li by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that Mr. Li cannot be found despite diligent efforts.

If Bing Li refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If a verbal refusal to sign is made to a person, details should be given in an affidavit or declaration of facts by a person having first hand knowledge of the facts of refusal.

Finally, if it is found that joint inventor Bing Li is residing at a different address than that listed in the initial petition, petitioners should provide a new statement of the last known address in a renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] MPEP 409.03(d).

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of
Lawrence C. Gunn et al.
Application No. 10/917,204
Deposited: August 11, 2004
Attorney Docket No: LUX-2033

: DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration filed under 37 CFR 1.47(a) on May 31, 2005.

The petition is **GRANTED**.

The above-identified application was filed on August 11, 2004 naming Lawrence C. Gunn, Roger Koumans, Bing Li, Guo Liang Li and Thierry J. Pinguet as joint inventors, and signed by all inventors except Bing Li. Petitions seeking status under 37 CFR 1.47(a), filed March 2, 2005 and March 23, 2005 were dismissed because petitioners had not provided sufficient proof that diligent efforts had been employed to locate the non-signing inventor.

Comes now petitioner with the instant request for reconsideration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

In response to the decisions dismissing the petitions, the instant petition shows that an updated address was located for Mr. Li, that correspondence was sent to him at the last known address and that telephone calls and messages were made to a telephone number associated with that address, but that Li has neither returned an executed oath or declaration or returned the telephone calls. Thus, by his actions, it can be concluded that he refuses to cooperate with the filing of the instant patent application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby

accorded Rule 1.47(a) status.

All requirements under 37 CFR 1.47(a) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to Technology Center 2874 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JUN 16 2005

OFFICE OF PETITIONS

BING LI
6652 BROOK FALLS CIRCLE
STOCKTON, CA 95219-2442

In re Application of
Lawrence C. Gunn et al.
Application No. 10/917,204
Filed: August 11, 2004
For: PN DIODE OPTICAL MODULATORS FABRICATED IN RIB WAVEGUIDES

Dear Mr. Li:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
FERNANDEZ & ASSOCIATES, LLP
PO BOX D
MENLO PARK CA 94026-6402

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OCT 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Gunn III, et al.	:	
Application No. 10/917,204	:	
Filed: August 11, 2004	:	DECISION ON PETITION
Attorney Docket No. LUX-P033	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed August 25, 2005.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on May 18, 2005. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

In view of the above, this application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Receipt of the $750 petition fee is acknowledged.

A "Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing", indicating a projected publication date of January 12, 2006, is enclosed.

The application is being forwarded to Group Art Uni 2874 for examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: "Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing" (1 page)

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JUDY JARECKI-BLACK; PH.D., J.D.
3239 SATELLITE BLVD. 3RD FLOOR
DULUTH GA 30096

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OFFICE OF PETITIONS

In re Application of David et al. Application Number: 10/917211 Filing Date: 08/12/2004 Attorney Docket Number: MER 03-012	: : : : : :	DECISION ON PETITION

This is a decision on the petition filed on January 9, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on May 10, 2007, for failure to timely submit a reply to the Office action requiring restriction and/or election mailed on April 9, 2007, which set a one (1)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the response to the restriction requirement is acknowledged.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The five (5)-month extension request filed on January 9, 2008, was submitted more than five (5) months after the end of the period for reply to the Office action requiring restriction and/or election mailed on April 9, 2007, and therefore is unnecessary. The extension of time fee will be refunded.

The application is being referred to Technology Center Art Unit 1645 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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In re Application of MEANS, JAMES L.
Appl. No.: 10/917,212
Filed: August 12, 2004
For: PASSIVE EXHAUST SUPPRESSOR AND METHOD

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed 10/17/05 to expunge information from the above identified application.

The petition is granted.

Petitioner requests that certain material on various pages of the specification and abstract as originally filed be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been removed from the official file.

Enclosure: Original pages 2, 4, 11, 16 and Abstract (send to applicant)

Michael Carone
Art Unit 3641
571-272-6873

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Application of MEANS, JAMES L.
Appl. No.: 10/917,212
Filed: August 12, 2004
For: PASSIVE EXHAUST SUPPRESSOR AND METHOD

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed October 17, 2005 to expunge information from the above identified application.

The petition is granted.

Petitioner requests that certain material on various pages of the specification and abstract as originally filed be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been removed from the official file.

Enclosure: Original pages 2, 4, 11, 12, 16, and Abstract (to applicant only)

Michael Carone
Art Unit 3641
571-272-6873

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JAN 28 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Ronald D. Slusky
Suite 5L
353 West 56th Street
New York NY 10019-3775

In re Application of:
Mei HAN, et al.
Application No. 10/917,225
Filed: August 12, 2004
For: **VIDEO SURVEILLANCE SYSTEM WITH OBJECT DETECTION AND PROBABILITY SCORING BASED ON OBJECT CLASS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed December 8, 2004.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The statements made in the petition show how the technology of the instant application directly contributes to the countering of terrorism.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the examiner for expedited action in its turn.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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Paper No.

POPOVICH, WILES & O'CONNELL, PA
650 THIRD AVENUE SOUTH
SUITE 600
MINNEAPOLIS, MN 55402

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AUG 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Von Lehe et al.	:	DECISION ACCORDING STATUS
Application No. 10/917,249	:	UNDER 37 CFR 1.47(a)
Filed: August 12, 2004	:	
Attorney Docket No. EV31031US	:	

This is in response to the "PETITION UNDER 37 C.F.R. § 1.47(a)-AN INVENTOR REFUSES TO SIGN," filed December 8, 2004.

The petition is **GRANTED**.

The above-identified application was filed on August 12, 2004, without an executed oath or declaration and missing the statutory basic filing fee. On October 8, 2004, the Office mailed a Notice to File Missing Parts of Application requiring the missing items and a late surcharge.

In response, applicants timely filed a response, including the instant petition and payment of both the statutory basic filing fee and the late surcharge. Applicants assert that status under § 1.47(a) is proper because inventor Clubb refuses to sign the declaration for patent.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

By declaration of paralegal Julie Ulrich, and supporting documentary evidence, applicants have shown that inventor Clubb has refused to join in the application after having been presented with the application papers. The petition includes payment of the petition fee and the last known address of inventor Clubb.

The declaration filed December 8, 2004, and the petition have been reviewed and are both found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status. As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MR. THOMAS CLUBB
554 PERCH LAKE ROAD
HUDSON, WI 54016

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AUG 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Von Lehe et al.	:	LETTER
Application No. 10/917,249	:	
Filed: August 12, 2004	:	
Attorney Docket No. EV31031US	:	

Dear Mr. Clubb:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be

directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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NBC TOWER
CHICAGO, IL 60611

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MAY 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Steven C. Chudik	:	
Application No. 10/917,266	:	DECISION ON PETITION
Filed: August 11, 2004	:	TO WITHDRAW
Attorney Docket No. 12624/4	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 15, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to John Freeman has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

There is an outstanding Office action mailed February 24, 2006 that requires a reply from the applicant.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

David Bucci
Petitions Examiner
Office of Petitions

cc: Gregory B. Beggs
Law Offices of Gregory B. Beggs
5100 Fairview Avenue
Downers Grove, IL 60515

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GREGORY B. BEGGS
LAW OFFICES OF GREGORY B. BEGGS
5100 FAIRVIEW ANVENUE
DOWNERS GROVE IL 60515

2/29/06

In re Application of:
Chudik, Steven C.
Serial No.: 10/917,266
Filed: Aug. 11, 2004
Docket: 12624/4
Title: DEVICES AND METHODS USED FOR SHOULDER REPLACEMENT

DECISION ON PETITION OF NON-ENTRY OF AFTER FINAL AMENDMENT and WITHDRAWAL ABANDONMENT

This is a decision on the petition filed on Oct. 30, 2006 to enter the amendment after final under 37 CFR § 1.116 and to withdraw the holding of abandonment. The petition is being considered pursuant to 37 CFR §1.181, for which no fee is required. Petitioner further requests the present petition to be treated alternatively as a petition to revive an unavoidable/unintentional abandonment under 37 CFR §1.137 if the 37 CFR §1.181 petition is denied.

The petition is dismissed.

Initially, it is pointed out that the petition requests two different forms of relief. This is impermissible under 37 CFR §1.4(c). This decision will only address the withdrawing of the holding of abandonment along with the entry of the amendment, pursuant to 37 CFR §1.181.

In the petition the applicant requests a review of the examiner's refusal to enter the amendment after final filed on Aug. 23, 2006 in the Advisory Action issued by the examiner on Sep. 12, 2006. In the Advisory Action, the examiner refused to enter the amendment because the amendment raised new issues that would require further consideration and/or search and the amendment is not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal. In particular, the new limitations in claim 155 that the suture pin is advanced through the humerus "in a single unidirectional pass" and that the suture is "tensioned and secured outside of the humerus" both require further consideration and a search. The examiner noted that proper antecedent basis for the new limitations were not found in the specification. The examiner also noted related problems with the disclosure based on the new limitations. Since the applicant failed to file any notice of appeal, on Oct. 2, 2006, the examiner issued a notice of abandonment. This application was abandoned on Aug. 24, 2006.

On Oct. 30, 2006, the current petition was filed to request withdrawal of abandonment and entry of the applicant's amendment filed August 23, 2006. On Oct. 24, 2006, the applicant also filed a

Continuation of the current application. The continuation application was accorded the serial number 11/585,041.

Discussion and Analysis

Relevant portions of 37 CFR §1.116 Amendments and affidavits or other evidence after final action and prior to appeal, state:

> (a) An amendment after final action must comply with 37 CFR 1.114 or this section. (b) After a final rejection or other final action (37 CFR 1.113) in an application or in an ex parte reexamination filed under 37 CFR 1.510, or an action closing prosecution (37 CFR 1.949) in an inter partes reexamination filed under 37 CFR 1.913, but before or on the same date of filing an appeal (37 CFR 41.31 or 37 CFR 41.61 of this title): (1) An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action; (2) An amendment presenting rejected claims in better form for consideration on appeal my be admitted; or (3) An amendment touching the merits of the application or patent under reexamination may be admitted upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented. Furthermore, entry of amendments after final rejection is not a matter of right (see 37 CFR 1.116).

In order to determine whether or not that the amended claim 155 raises new issues, which requires further consideration and/or search, a comparison of the newly amended claim 155 of Aug. 23, 2006 and the existing claim 155 of Dec. 2, 2005 under final rejection, must be made. The difference is the addition of the limitations "in a single unidirectional pass" and "outside of the humerus" in claim 155. Such added limitations to claim 155 clearly raise new issues and require further consideration of the prior art references for patentability. Applicant also failed to show any good and sufficient reasons why the amendment is necessary and was not earlier presented. The review of the record shows that the examiner was in compliance with proper examining practice as set forth in MPEP 714.13. Therefore, the amendment after final filed on Dec. 11, 2006 is not in compliance with 37 CFR §1.116. The examiner's advisory action in refusing to admit the amendment of Aug. 23, 2006 is proper.

A Notice of Abandonment was mailed on Oct. 02, 2006. The file record shows that applicant paid for a three month extension of time from the three month shortened statutory period set by the final rejection dated Feb. 24, 2006. A reply, such as a Notice of Appeal, was due by Aug. 24, 2006 to avoid abandonment. No Notice of Appeal was filed. Therefore, this application became abandoned as a matter of operation of law on Aug. 25, 2006. In view of this, there is no copendency with Continuation application serial number 11/585,041, filed Oct. 24, 2006.

Petitioner is again reminded that this decision does not address the abandoned status of the application with respect to revival of the application pursuant to 37 CFR §1.137(a) and (b) because to do so would contravene the requirement of 37 CFR §1.4(c), which the undersigned is without authority to waive.

Conclusion

For the foregoing reasons, the relief sought by petitioner requesting withdraw of the application from abandonment and requesting entry of the amendment after final filed Aug. 23, 2006, will not be granted.

The application is being forwarded to the Office of Petitions for consideration of the relief requested under 37 CFR §1.137.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-3468.

PETITION DISMISSED.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

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LAW OFFICES OF GREGORY B. BEGGS
5100 FAIRVIEW ANVENUE
DOWNERS GROVE IL 60515

In re Application of
Steven C. Chudick
Application No. 10/917,266
Filed: August 11, 2004
Attorney Docket No. 12624/4

: DECISION ON PETITION UNDER
: 37 CFR 1.137(a) and 1.137(b)
:
:

This is a decision on the petitions under 37 CFR 1.137(a) and 1.137(b) to revive the above-identified application filed October 30, 2006.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED.**

A review of the application file history reveals that a final Office action was mailed in the above-cited application on February 24, 2006, allowing a shortened statutory period for reply of three months from its mailing date. Extensions of the time for reply were available pursuant to 37 CFR 1.136(a). On August 23, 2006, a response to the final Office action was filed along with a request for an extension of time within the third month. By an Advisory Action mailed September 12, 2006, petitioner was advised that the response of August 23, 2006, failed to place the application in condition for allowance. The application became abandoned on August 25, 2006, and a Notice of Abandonment was mailed October 2, 2006.

TREATMENT UNDER 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

---

[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that the examiner's determination that the amendment filed August 23, 2006, would not be entered could not have been anticipated by petitioner and, therefore, the delay in filing a proper response to the final Office action was unavoidable. It is noted that petition to withdraw the holding of abandonment was also filed on October 30, 2006. The petition was dismissed by a decision rendered by the Special Programs Examiner Henry Yuen of Technology Center 3700, GAU 3738. It is further noted that the petition decision addressed the merits of the examiner's decision not to enter the amendment filed August 23, 2006. This petition decision does not seek, or intend, to revisit the appropriateness of the examiner's decision and will only address the question of whether the delay in filing a proper response to the final Office action was unavoidable.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reasons petitioner's argument must necessarily fail are addressed below.

The record demonstrates that petitioner waited until the last day of the maximum extendable statutory period for reply to file a response to the final Office action. The amendment was not accompanied by a Notice of Appeal to be considered in the alternative. In so doing, petitioner assumed a risk that the amendment would not be entered and that there would no time to file any additional responses to the final Office action to keep the application from going abandoned. Under these circumstances, the delay in responding to the final Office action can be considered unavoidable as petitioner may have avoided abandonment of the application by not waiting until the day before the expiration of the statutory period for reply to file a response and/or filing a Notice of Appeal to be considered alternative. Further to this point, Section 711.03(c) of the Manual of Patent Examining Procedure provides, in pertinent part, that:

> Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See *Haines*, 673 F. Supp. at 317, 5 USPQ2d at 1132; *Vincent v. Mossinghoff*, 230 USPQ 621, 624 (D.D.C. 1985); *Smith v. Diamond*, 209 USPQ 1091 (D.D.C. 1981); *Potter v. Dann*, 201 USPQ 574 (D.D.C. 1978); *Ex parte Murray*, 1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay. See *Krahn*, 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the

---

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

> USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See *In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985).

It is incumbent upon the applicant to file a timely and proper response to all Office actions. The failure of applicant to accomplish this is not a cause for unavoidable delay.. The petition is dismissed, accordingly.

Deposit account 02-1740 will be charged $250.00 for the instant petition fee.

TREATMENT UNDER 37 CFR 1.137(b)

The petition under 37 CFR 1.137(b) is **GRANTED**.

The continuing application filed October 24, 2006, and accorded application serial number 11/585,041 is noted as the response required by 37 CFR 1.137(b)(1).

The application file is being directed to Technology Center Group Art Unit 3738 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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GREGORY B. BEGGS
LAW OFFICES OF GREGORY B. BEGGS
5100 FAIRVIEW ANVENUE
DOWNERS GROVE IL 60515

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OFFICE OF PETITIONS

In re Application of: Steven C. Chudik	:
Application No.: 10/917,266	:
Filed: August 11, 2004	: DECISION ON PETITION
For: DEVICES AND METHODS USED FOR SHOULDER REPLACEMENT	:

Applicant's petition filed October 30, 2006 has been decided in the decision mailed March 14, 2008. The decision granting the petition under 37 CFR 1.137(b) and dismissing the petition under 37 CFR 1.137(a) is confirmed by this petition. The purpose of the revival of the above-refernced application was to provide continunity with application no. 11/585,041. In this regard, since the revival is for continuity purposes only, the present application is again being returned to an abandoned status.

Telephone inquiries concerning this decision should be directed to the undersigned.

Anthony Knight
Supervisor
Office of Petitions
(571) 272-3687

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ADVANCED MICRO DEVICES, INC.
C/O VEDDER PRICE P.C.
222 N.LASALLE STREET
CHICAGO, IL 60601

Mail Date: 04/21/2010

Applicant	: Stephen L. Morein	: DECISION ON REQUEST FOR
Patent Number	: 7589722	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/917,268	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **418** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OIW 11-04

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SUITE 800
WASHINGTON DC 20037

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NOV 30 2004

OFFICE OF PETITIONS

In re Application of	:	
Yasutaka Nagao	:	
Application No. 10/917,279	:	ON PETITION
Filed: 13 August, 2004	:	
Attorney's Docket No. Q82972	:	

This is a decision on the petition filed on 8 November, 2004, requesting that the above-identified application be accorded a filing date of 13 August, 2004, with Page 1 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 13 August, 2004.

Accordingly, on 25 October, 2004, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 13 August, 2004, but that Page 1 of the specification (description and claims) appeared to have been omitted.

In response, on 8 November, 2004, the present petition and a copy of Page 1 of the specification were filed. Petitioner argues that Page 1 of the specification was filed with the other application papers on 13 August, 2004, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 13 August, 2004, and identifies the application by the inventor's name, attorney docket number, and invention title and acknowledges receipt of, *inter alia*, 38 pages of specification. Petitioner requests that the application, including Page 1 of the specification, be accorded a filing date of 13 August, 2004.

A review of the record reveals that no Page 1 of the specification has been located among the application papers received on 13 August, 2004. However, the evidence is convincing that the application papers deposited on 13 August, 2004, included Page 1 of the specification, which was subsequently misplaced in the Office. Therefore, the application, including Page 1 of the specification, is entitled to a filing date of 13 August, 2004.

The "Notice" mailed on 25 October, 2004, is vacated.

In view of the above, the petition is granted. The petition fee of $130.00 will be credited to counsel's deposit account, No. 19-4880.

The application will be processed with a filing date of 13 August, 2004, using the copy of Page 1 supplied on 8 November, 2004, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 13 August, 2004, using the application papers filed on that date, and the copy of Page 1 of the specification supplied with the present petition.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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April 2006

APR 7 2006

Paul J. Skwierawski
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Arlington, Virginia 22209

In re Application of: SHUNSUKE YAMANA, ET AL. Serial No.: 10/917,281 Filed: 13 August 2004 Docket: 1309.44162X00 Title: STORAGE DEVICE SYSTEM AND COOLING STRUCTURE FOR LOGIC CIRCUIT BOARD FOR STORAGE DEVICE SYSTEM	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

This is a decision on the petition filed on August 22nd, 2005 to make the above-identified application special for accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petitioner provides: a) the applicable fee; b) all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status; c) a statement that a search has been made; d) two information disclosure statements citing references deemed most pertinent; and e) a detailed discussion of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) the applicable petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, listing the field of search by class and subclass; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a), (b) and (d) are considered to have been met. However, the petition fails to meet the requirements of MPEP § 708.02(VIII) (c) and (e) because

it is not clear that a proper search was made and because *each* of the cited references is not discussed.

MPEP § 708.02(VIII)(c), 37 CFR § 1.111 (c) requires applicant to "[submit] a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc." Applicant has conducted a search in a number of US classes and subclasses and states that, "[a]dditionally, a computer database search was conducted on the USPTO systems EAST." However, details of the additional "computer database search" were not given. If this search involved the use of keywords or encompassed further classes and subclasses, for example, no such keywords or search field information has been provided. Thus, it is not clear that a proper search has been made.

MPEP § 708.02(VIII) (e) requires a detailed discussion of each cited reference, pointing out with the particularity required by 37 CFR 1.111 (b) and (c) how the claimed subject matter is distinguishable over the references. A review of the file history reveals that applicant filed two information disclosure statements, including one on October 14th, 2005 which cites US Patent Application Publication 2002/0152339 to Yamamoto. However, this reference has not been discussed with the particularity required by 37 CFR 1.111 (b) and (c). Therefore, the petition fails to meet the requirements of MPEP § 708.02(VIII) (e).

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any request for reconsideration must include: 1) details of the "computer database search" including keywords used, if appropriate; and 2) a detailed discussion with the particularity required by 37 CFR 1.111 (b) and (c) of the cited US Patent Application Publication 2002/0152339 to Yamamoto.

Any inquiry regarding this decision should be directed to Clayton E. LaBalle, Special Programs Examiner, at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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ALEXANDRIA VA 22314

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NOV - 8 2005
Technology Center 2100

In re Application of: KOBAYASHI, et al.
Application No. 10/917,302
Filed: August 13, 2004
For: INFORMATION STORING METHOD FOR COMPUTER SYSTEM INCLUDING A PLURALITY OF COMPUTERS AND STORAGE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 21 September 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 22, 2008

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No.:/10/917304 /7291361

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

1792

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/917,338	08/13/2004	Theron Tock	0023-0195	1825

44987 7590 06/12/2009
HARRITY & HARRITY, LLP
11350 Random Hills Road
SUITE 600
FAIRFAX, VA 22030

EXAMINER
TABOR, AMARE F

ART UNIT	PAPER NUMBER
2434	

MAIL DATE	DELIVERY MODE
06/12/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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TECHNOLOGY CENTER 2100

Harrity & Harrity, LLP
11350 Random Hills Road
Suite 600
Customer number 44987
Fairfax, Virginia 22030

In re Application of: Theron Tock et al.
Vadim Egorov
Andrew R. Harding
Sampath Srinivas
Application No. 10/917,338
Attorney Docket No. 0023-0195
Filed: August 13, 2004
For: METHOD AND SYSTEM FOR PERFORMING A SECURITY CHECK

Petition under 37 CFR 1.48(a)

In view of the papers and petition filed March 03, 2006, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding Andrew R. Harding and Sampath Srinivas, such that the current inventorship is now Theron Tock, Vadim Egorov, Andrew R. Harding and Sampath Srinivas.

The petition has been **Granted**.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Inquiries to this decision may be directed to Special Programs Examiner Tod Swann at (571) 272-3612.

Kambiz Zand, SPE 06/11/09
Technology Center 2400
Cryptography and Network Security

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OFFICE OF PETITIONS

In re Application of	:	
Dan Gorcea	:	
Application No. 10/917,347	:	ON PETITION
Deposited: August 13, 2004	:	
Attorney Docket No.: 85773-462	:	
Title: Multilayer Structure with	:	
Device for Improving Integrity of	:	
Signals Propagating Between Signal	:	
Layers		

This is a decision on the petition to accord a filing date submitted October 24, 2005 requesting that the above-identified application be accorded a filing date of August 13, 2004.

Application papers in the above-identified application were deposited on August 13, 2004. However, on November 4, 2004 the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicant that the application papers had not been accorded a filing date because the application was deposited without drawings.[1]

In response, on December 22, 2004 petitioner submitted 6 sheets of drawings including figures 1, 2A-2E, 3A-3D, 4, a declaration and postcard receipt. It is noted Petitioner failed to file a petition. Petitioner submitted a petition on October 24, 2005 requesting a filing date of August 13, 2004. The petition contends that the application as filed contained 6 sheets of drawings and were described in the original filed specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of "6 pages of drawings" on August 13, 2004.

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[1] See 35 U.S.C. 111(a)(4)

Applicant's postcard receipt is prima facie[2] evidence that the drawing were received on August 13, 2004, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 6 sheets of drawings, including figures 1, 2A-2E, 3A-3D,4, were received on August 13, 2004, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted. The $400.00 petition fee will be refunded to deposit account 19-2550.

The application will then be returned to the Office of Initial Patent Examination for further processing with a **filing date of August 13, 2004**, using the 6 sheets of drawings supplied on December 22, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petition Attorney
Office of Petitions

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[2]A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.

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UNIT #33 – 2280 MUNN'S AVENUE EAST
OAKVILLE, ON L6H 3L1
CANADA

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Leonard Ineson et al :
Application No. 10/917,349 :
Filed: August 13, 2004 :
Attorney Docket No. 53 LI-07-US :

This is a decision on the petition, filed February 15, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 8, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 9, 2004.

The $750 petition fee (small entity) was applied on February 15, 2007. An additional $790 was also received on February 15, 2007. **Office record shows petitioner's total amount due from the Notice to File Missing Parts of Nonprovisional Application mailed October 8, 2004 is $1610. The $790 received on February 15, 2007 has been applied; therefore, petitioner has an outstanding balance of $820. All fees must be paid from the current fee schedule, Effective December 8, 2004.**

The petition under 37 CFR 1.137(b) submitted on February 15, 2007 was not signed. It is noted only Leonard Ineson name is listed for signature. **Communications received at the USPTO must be signed by all of the applicants**. 37 CFR 1.33(b) states:

> "Amendments and other papers filed in the application must be signed by: (1) An attorney or agent of record appointed in compliance with § 1.34(b); (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a); (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest; (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or (5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
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By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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801 PENNSLYANIA NW
WASHINGTON, DC 20004-2604

In re Application of	:	
Leonard Ineson et al	:	
Application No. 10/917,349	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 7820/90878	:	

This is a decision on the renewed petition filed January 25, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Patent Application Processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/917,349	08/13/2004	Leonard Ineson	7820/90879

CONFIRMATION NO. 1827

POA ACCEPTANCE LETTER

OC000000030177357

388
FULBRIGHT & JAWORSKI
MARKET SQUARE
801 PENNSLYVANIA, N.W.
WASHINGTON, DC 200042604

Date Mailed: 05/28/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/25/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/917,349	08/13/2004	Leonard Ineson	7820/90879

CONFIRMATION NO. 1827

POWER OF ATTORNEY NOTICE

22242
FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

OC000000030177356

Date Mailed: 05/28/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/25/2008.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

COPY MAILED

AUG 31 2006

OFFICE OF PETITIONS

In re Application of	:	
Byun et al.	:	
Application No. 10/917,353	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No.	:	
46320	:	

This is a decision on the petition under 37 CFR 1.55(c), filed September 28, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Korean Application No. 2003-61456, filed September 3, 2003[1].

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

[1] While the petition notes the filing date of the Korean application no. 2003-61456, as September 23, 2003, the oath/declaration and the certified copy of the priority document both list the filing date as September 3, 2003.

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on August 13, 2004, which is after November 29, 2000 and within 12 months of September 3, 2003 (the filing date of the foreign application to which benefit is now being claimed). On September 28, 2005, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1370.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be

construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

This application is being referred to Technology Center AU 2617 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Derek L. Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/917,353	08/13/2004	2617	1660	46320	66	49	5

CONFIRMATION NO. 1806

CORRECTED FILING RECEIPT

OC000000020132274

001609
ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Date Mailed: 08/22/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Chang-Heum Byun, Gumi-si, KOREA, REPUBLIC OF;
Jong-Gun Bae, Gumi-si, KOREA, REPUBLIC OF;
Sung-Ill Kang, Gumi-si, KOREA, REPUBLIC OF;
Seung-Hwan Lee, Gumi-si, KOREA, REPUBLIC OF;

Power of Attorney: The patent practitioners associated with Customer Number **001609**.

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2003-80342 11/13/2003
REPUBLIC OF KOREA 2004-28590 04/26/2004
REPUBLIC OF KOREA 2003-61456 09/03/2003

If Required, Foreign Filing License Granted: 10/08/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/917,353

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Sliding/hinge apparatus for sliding/rotating type mobile terminals

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OYEN, WIGGS, GREEN
& MUTALA LLP
480 - THE STATION
601 WEST CORDOVA STREET
VANCOUVER BC V6B 1G1 CA
CANADA

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APR 2 4 2006

OFFICE OF PETITIONS

In re Application of

Dieter Wolfgang Blum

Application No. 10/917,358

Filed: August 13, 2004

Attorney Docket No. D356 0004

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed on March 22, 2006.

The petition is **granted**.

This application was held abandoned on January 7, 2006, after no reply was received to the Notice of Allowance and Issue Fee Due mailed October 6, 2005. The notice set forth a statutory period for reply of three months from its mailing date. A Notice of Abandonment was mailed on February 27,2 006. The instant petition was filed on March 22, 2006. Petitioner maintains that the notice of October 6, 2005, was never received and provides a copy of the relevant docket records as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The issue and publication fees were received on March 22, 2006.

Form PTOL 85-b was also received on March 22, 2006.

The application file will be directed to the Office of Patent Publications for further processing.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

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MAY 2 2 2006
OFFICE OF PETITIONS

In re Application of :
Hongyong Zhang et al :
Application No. 10/917,373 : DECISION GRANTING PETITION
Filed: August 13, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7373 :

This is a decision on the petition, filed May 19, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 13, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2891 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\may9\917373.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

MAIL

APR 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of LIU et al Application No.: 10/917,401 Filing Date: August 13, 2004 For: HIGH READ PERFORMANCE FILE SYSTEM AND PROGRAM	: : : : : :	DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition filed April 4, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 CFR §1.102(d), states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

With respect to requirement (E), the petition does not contain a detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). The petition provides a summary of each reference but does not discuss the specific limitations of the independent claims in sufficient detail. Rather, the distinction offered is merely a general statement regarding the relationships of the elements in the independent claims and thus is effectively directed to the entirety of the independent claims. However, a submission that the entirety of the independent claims is not disclosed by the prior art does not provide an adequate distinction between the claimed invention and each of the cited references.

Because the petition fails to satisfy all of the criteria set forth above, the petition to make special is **DISMISSED**.

Any request for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision.

The application will remain in the status of a new application awaiting action in its regular turn.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, Virginia 22209-3873

MAILED

MAR 1 4 2006

TECHNOLOGY CENTER 2100

In re Application of: Fuming Liu et al.	)	
Application No.: 10/917,401	)	**DECISION ON PETITION FOR**
Filed: August 13, 200401	)	**ACCELERATED EXAMINATION**
For: HIGH READ PERFORMANCE FILE	)	**UNDER M.P.E.P §708.02(VIII)**
SYSTEM AND PROGRAM	)	

This is a decision on the renewed petition filed June 1, 2005, in response to the decision mailed April 28, 2005 regarding the petition filed April 4, 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with

the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicant's combined submissions meet all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3599

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Mila Shvartsman
P.O. Box 48652
CSP Outremont QC H2V 4T9
CANADA

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JUN 28 2007

OFFICE OF PETITIONS

In re Application of :
Albert Chartier :
Application No. 10/917,435 : DECISION ON PETITION
Filed: 08-13-2004 :
Title: Braking monitoring system :

This is decision on the petition under 37 CFR 1.181, filed February 20, 2007, to withdraw the holding of abandonment.

On March 24, 2006, the Office mailed a nonfinal Office action, which set a three month shortened statutory period to respond. On July 11, 2006, applicants filed a reply. On July 20, 2006, the Office mailed a Notice of Fee Deficiency and a Notice of Non-Compliant Amendment, setting a period ONE MONTH or THIRTY DAYS from the mailing date of the Notices, whichever was longer, to reply. Extensions of this time period were permitted under 37 CFR 1.136. On August 24, 2006 (certificate of mailing dated August 16, 2006), applicants submitted an extension of time for response within the first month and a $60.00 fee. However, in the apparent absence of a timely filed response to the Notice of Non-compliant Amendment, the application became abandoned on August 21, 2006. On December 14, 2006, the Office mailed a Notice of Abandonment.

Applicants asserted that they submitted a timely response to the Notice of Fee Deficiency as evidenced by the certificate of mailing dated August 16, 2006. However, the record does not show that the USPTO received a response to the Notice of Non-Compliant Amendment previously or with the present petition. A copy of the Notice is enclosed for applicants' convenience.

Accordingly, the petition to withdraw the holding of abandonment is **dismissed**. A request for reconsideration of this decision must be submitted with TWO (2) MONTHS of the mailing date of this decision. Extensions of this time period may be granted under 37 CFR 1.136. The request for reconsideration should include a cover sheet entitled "Renewed Petition Under 37 CFR 1.181."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Mila Shvartsman
P.O. Box 48652
CSP Outremont QC H2V 4T9
CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Chartier et al.	:	
Application No. 10/917,435	:	DECISION ON PETITION
Filed: 08-13-2004	:	
Title: Braking monitoring system	:	

This is decision on the petition under 37 CFR 1.137(b), filed November 2, 2007, to revive the above-identified application.

On March 24, 2006, the Office mailed a nonfinal Office action, which set a three month shortened statutory period to respond. On July 11, 2006, applicant filed a reply. On July 20, 2006, the Office mailed a Notice of Fee Deficiency and a Notice of Non-Compliant Amendment, setting a period ONE MONTH or THIRTY DAYS from the mailing date of the Notices, whichever was longer, to reply. Extensions of this time period were permitted under 37 CFR 1.136. On August 24, 2006 (certificate of mailing dated August 16, 2006), applicant submitted an extension of time for response within the first month and a $60.00 fee. However, in the apparent absence of a timely filed response to the Notice of Non-Compliant Amendment, the application became abandoned on August 21, 2006.[1] On December 14, 2006, the Office mailed a Notice of Abandonment. On February 20, 2007, applicant filed a petition to withdraw the holding of abandonment, which was dismissed by the decision of June 28, 2007.

On November 2, 2007, applicant filed the present petition under 37 CFR 1.137(b), a reply, and the petition fee. Applicant has met the requirements under 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

This matter is being referred to Technology Center AU 2612.

[1] An applicant must submit a timely, complete, and proper reply to a Notice or Office action within the period indicated in the Office communication to avoid abandonment of the application. That is, even if an applicant disputes the correctness of the Notice or Office action, applicant must state such in the form of a reply within the period provided by the Office communication.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Conferee: Anthony Knight, Supervisor

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mila Shvartsman
P.O. Box 48652
CSP Outremont QC H2V 4T9
CANADA

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OFFICE OF PETITIONS

In re Application of :
Albert Chartier :
Application No. 10/917,435 :
Filed: August 13, 2004 :
Title: Braking monitoring system :

DECISION ON PETITION

This is in response to the requests filed July 1, 2008, and October 31, 2008, seeking a refund of the fee for the filing a petition to revive under 37 CFR 1.137(b) as set forth in 37 CFR 1.17(m).

On March 24, 2006, the Office mailed a non-final Office action, which set a three-month shortened statutory period to respond. On July 11, 2006, applicants filed a reply. On July 20, 2006, the Office mailed a Notice of Fee Deficiency and a Notice of Non-Compliant Amendment, setting an extendable period of one-month or thirty days from the mailing date of the Notices, whichever was longer, to reply. On August 24, 2006 (certificate of mailing dated August 16, 2006), applicants submitted an extension of time for response within the first month and a $60.00 fee. On December 14, 2006, the Office mailed a Notice of Abandonment. On February 20, 2007, applicants filed a petition to withdraw the holding of abandonment, which was dismissed by the decision of June 28, 2007. In the decision, the Office concluded that applicants did not establish that they filed a response to the Notice of Non-Compliant Amendment. As no timely and proper reply to the Notice of Non-Compliant Amendment was received, the application was properly held abandoned. On November 2, 2007, applicants filed a petition under 37 CFR 1.137(b) to revive the application, accompanied by a reply and the requisite petition fee. The petition was granted by the decision of March 5, 2008.

The Office reminds applicants that they were required to submit a timely, complete, and proper reply to Notice of Non-Compliant Amendment within the period indicated in the Notice to avoid abandonment of the application. Even if an applicant disagrees with a requirement of the examiner, the applicant must set forth that disagreement in a response otherwise, it will be considered a deficient response as was the case here. Moreover, an applicant cannot wait until after the application goes abandoned in order to challenge a requirement of the examiner. An applicant must be diligent in filing a petition against a requirement of the examiner within two months of the date of the requirement. Finally, it should be noted that even if such a petition is filed it will not stay the period for response to that requirement.

In this instance, the application was properly held abandoned, and thus, the filing of a petition under 37 CFR 1.137 (accompanied by a petition fee) was necessary to revive the abandoned application. The Office notes:

> 35 U.S.C. 41(a)(7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), **the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.**
>
> In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that **the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137**. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). **Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.**

MPEP 711.03(c)(III)(B) (emphasis added).

In view of the above, the request for a refund of the fee for filing the petition under 37 CFR 1.137(b) is **DISMISSED**.

Telephone inquiries related to this decision should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Anthony Knight
Supervisor
Office of Petitions

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NIXON PEABODY, LLP
401 9TH STREET NW, SUITE 900
WASHINGTON DC 20004-2128

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OFFICE OF PETITIONS

In re Application of	:	
YAMAZAKI, et al.	:	
Application No. 10/917,441	:	DECISION GRANTING PETITION
Filed: August 13, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740756-2760	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 12, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 2, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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WASHINGTON, DC 20004-2128

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OFFICE OF PETITIONS

In re Application of
Shunpei Yamazaki et al
Application No. 10/917,441
Filed: August 13, 2004
Attorney Docket No. 740756-2760

ON PETITION

This is a decision on the petition, filed April 17, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 19, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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1940 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Atsuhiro Saitou et al.	:	
Application No. 10/917,460	:	DECISION GRANTING PETITION
Filed: August 13, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 256877US-90 CONT	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 31, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 14, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3733 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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VIENNA VA 22182-3817

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OFFICE OF PETITIONS

In re Application of
Shinichi Akatsu et al.
Application No. 10/917,471
Filed: August 13, 2004
Attorney Docket No. H64-167114M/NHK

: DECISION DISMISSING
: PETITION

This is a decision on the paper filed December 2, 2004, in response to the "Notice Of Omitted Item(s) in a Nonprovisional Application" (Notice) mailed October 19, 2004. The response is treated as a petition under 37 CFR 1.182.

The petition is **DISMISSED**.

The application was filed August 13, 2004. However, on October 19, 2004, the Office of Initial Patent Examination mailed the "Notice" stating that the application had been accorded a filing date of August 13, 2004, and advising applicant that the drawings of Figures 6C2 and 6C3 described in the specification appeared to have been omitted.

In response, petitioner argues that the drawings filed August 13, 2004 included Figures 6C2 and 6C3 and explains that no figures were missing on August 13, 2004. Instead, the application papers (specifically page 3 of 6) submitted, included two sets of Figures labeled as 6B2 and 6B3, that the second set of figures were incorrectly labeled and should have been labeled 6C2 and 6C3. A replacement/corrected sheet of drawings identified as 3/6 has been submitted with the proper label for the second set of figures previously labeled as 6B2 and 6B3.

It is obvious from the petition however, that no figures were actually missing on August 13, 2004. Rather, the figures were mislabeled and as a result of the applicants' filing error, failed to identify two of the figures on sheet 3 of 6 as 6C2 and 6C3. However, the "Notice" mailed on October 19, 2004, was correct in stating that Figures 6C2 and 6C3 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The present petition was not necessitated by any error on the part of the Office and thus a petition fee is due. The petition fee in the amount of $400.00 has been charged to deposit account no. 50-0481.

The Office of Initial Patent Examination will be notified to process the application with the filing date of August 13, 2004 and to use the application papers filed on that date and the corrected page 3 of 6 filed on December 2, 2004 with the petition.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

ORGANIC VISION INC.
2485 GUENETTE
ST. LAURENT QC H4R 2E9 CA CANADA

In re Application of	:	
Chunong QIU et al.	:	
Application No. 10/917,474	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 05, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 06, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of February 05, 2009 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The declaration of Andre Thibault has been reviewed. However, the declaration is not accompanied by a statement under 3.73(b), establishing ownership of the instant application by Guinsberg, Gingras & Associates Inc.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on January 21, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1794 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **THEODORE A. BREINER**
BREINER & BREINER, L.L.C.
P.O. BOX 320160
ALEXANDRIA VA 22320-0160

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OFFICE OF PETITIONS

In re Application of
Toshio Ota et al.
Application No. 10/917,503
Filed: August 13, 2004
Attorney Docket No. 084335-0186

ON PETITION

This is in response to the petition under 37 CFR 1.182, filed November 4, 2005, in response to the Notice of Incomplete Application, ("Notice"), mailed May 12, 2005, and requesting a filing date of August 13, 2004.

The petition is **GRANTED.**

The instant application was deposited with the USPTO on August 13, 2004. On May 12, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Application" indicating, *inter alia*, that the application was deposited without a complete specification and drawings, The "Notice" set a two (2) month shortened statutory period for reply.

In response, the present petition was filed, accompanied by, *inter alia*, a copy of the specification and three (3) sheets of drawings with a date-stamped postcard receipt showing that the specification and drawings had been received as well as an argument that the instant application incorporated by reference a prior filed complete application no. 09/629,429, filed July 28, 2000, which was copending when the instant application was filed.

Because the return postcard receipt date-stamped August 13, 2004 properly itemizes the contents of the application package in accordance with MPEP § 503, the Office concludes that a complete specification and three (3) sheets of drawings were filed on August 13, 2004 with the application papers but that the specification and drawings were misplaced in the office. The office apologizes for any inconvenience occasioned by the loss of the drawings.

In view of the foregoing, the **petition to accord a filing date of August 13, 2004** will be accorded this application. The petition fee in the amount of $400.00 will be credited to petitioner's deposit account no. 19-0741 as no fee is due.

This file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of August 13, 2004 using the application papers filed August 13, 2004 and the application papers supplied November 4, 2005, with the instant petition.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of
DeVries, et al.
Application No. 10/917,515
Filed: August 13, 2004
Attorney Docket No. 2602-0006
FOR: ARRANGEMENT, METHOD AND ELECTRODE FOR GENERATING A PLASMA

DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed August 18, 2005, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137(a)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed October 12, 2004, which set a period for reply of two (2) months. Having obtained no extensions of time under 37 CFR 1.136(a) and having filed no reply, this application became abandoned on December 13, 2004. A Notice of Abandonment was mailed on July 11, 2005.

Petitioners state that the delay was unavoidable because the Notice mailed on October 12, 2004 was not received at the correspondence address of record until an Office employee faxed it in July of 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof; (2) the petition fee as set forth in § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply

until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section. This petition does not satisfy requirement (3).

With respect to (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 U.S.C.§ 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

A review of the record indicates no irregularity in the mailing of the October 12, 2004 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

---

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have not proven non-receipt because practitioner did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of
DeVries, et al.
Application No. 10/917,515
Filed: August 13, 2004
Attorney Docket No. 2602-0006
FOR: ARRANGEMENT, METHOD AND ELECTRODE FOR GENERATING A PLASMA

DECISION GRANTING PETITION

This is a decision on the reconsideration petition under 37 CFR 1.137(a), filed September 30, 2005, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed October 12, 2004, which set a period for reply of two (2) months. Having obtained no extensions of time under 37 CFR 1.136(a) and having filed no reply, this application became abandoned on December 13, 2004. A Notice of Abandonment was mailed on July 11, 2005.

Petitioners state that the delay was unavoidable because the Notice mailed on October 12, 2004 was not received at the correspondence address of record until an Office employee faxed it in July of 2005.

Petitioners have provided adequate evidence to show that the delay in responding to the October 12, 2004 Notice was unavoidable. Practitioner states that he searched the firm's docketing records and the file jacket and there was no record of the October 12, 2004 Notice. Practitioner has provided a copy of the electronic docketing record and handwritten docket where the due date listed in the October 12, 2004 Notice would have been entered had the Notice been received. There is no mention of the October 12, 2004 Notice. The evidence is persuasive that the delay in responding to the October 12, 2004 Notice was unavoidable.

Therefore, the petition is granted.

After the mailing of this decision, the application file will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Patent No. 7,489,335	:
Kochi et al.	:
Issue Date: February 10, 2009	: DECISION ON REQUEST FOR
Application No. 10/917,519	: RECONSIDERATION OF
Filed: August 13, 2004	: PATENT TERM ADJUSTMENT
Attorney Docket No. 035924-0120	:

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705, filed April 1, 2009, which is properly treated under 37 CFR 1.705(d). Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from five hundred thirty-nine (539) days to one thousand eighty-six (1086) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 539 days.

The above-identified application was filed on August 13, 2004. On February 10, 2009, the above-identified application matured into U.S. Patent No. 7,489,335 with a revised patent term adjustment of 539 days. The Office determined that the 547 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B)[1] and 37 CFR

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application[.]

1.702(b), overlap with the 651 days of Office delay,[2] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1).[3] As such, the Office allowed entry of only the period of adjustment of 651 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the 112 days of applicant delay, the patent issued with a revised patent term adjustment of 539 days.

On April 1, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees aver that the correct number of days of Patent Term Adjustment is 1086 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the total non-overlapping PTO delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) is 1198 (651 + 547) days as these periods do not occur on the same days. Given the 112 days of applicant delay, patentees assert entitlement to 1086 days of patent term adjustment.

The Office has considered patentees' interpretation of the period of overlap, but finds it inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A).

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[2] The Office did not mail a Restriction Requirement until July 26, 2007, 14 months and 651 days after the application was filed on August 13, 2004.

[3] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application[.]

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[4] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final*

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[4] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of filing of the application under 35 U.S.C. 111(a) on August 13, 2004, and ending on the date of the issuance of the patent on February 10, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 651 days of patent term adjustment were accorded during the pendency of the application for Office delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 547 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.
All 547 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 651 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 547 days and the 651 days is

neither permitted nor warranted. 651 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment, having considered the 547 days of Office delay under the three-year pendency provision.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 539 days.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

15 OCT 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Laura C. Brutman
DARBY & DARBY
PO Box 5257
New York, NY 10150-5257

In re Application of:	:	
GUNDLACH, Harald, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/917,554	:	REVIVE ABANDONED
Filing Date: 12 August 2004	:	APPLICATION UNDER 37
Attorney's Docket No.: 20196/0201693-US0	:	CFR 1.137(b)
For: PROCESS FOR PRODUCING A STRUCTURED METAL LAYER ON A SUBSTRATE BODY, AND SUBSTRATE BODY HAVING A STRUCTURED METAL LAYER	:	

This decision is issued in response to applicants' "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 12 August 2004. Applicants have paid the required petition fee.

BACKGROUND

On 12 August 2004, applicants filed the present application under 35 U.S.C. 111(a) as a continuation of international application PCT/DE02/03305, accompanied by the petition for revival under 37 CFR 1.137(b) considered herein.

DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). As discussed below, applicants here have failed to satisfy these requirements.

The caption on the petition for revival refers to the present U.S. national application (i.e., the application filed "Concurrently Herewith," application number "Not Yet Assigned."). The petition seeks to revive such "above-captioned" application, which it states "became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office." However, the present U.S. national application is not abandoned. Accordingly, granting of the petition for revival of the present, unabandoned application, is not possible.

It is likely that applicants' intent here was to revive, for continuity purposes, parent application PCT/DE02/03305 (such application having become abandoned with respect to the U.S. on 17 March 2004, thirty months after the priority date of the international application). Under these circumstances, the filing of a continuation application such as the present application would be acceptable in satisfaction of the "required reply" requirement for a grantable petition to revive the international application. See MPEP § 711.03(c). However, because the petition expressly requests revival of the present U.S. national application, rather than the international application, revival of the parent international application in response to the present petition would not be appropriate.

CONCLUSION

The Petition For Revival is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within **TWO (2) MONTHS** from the mail date of this decision. If applicants' intent was to revive the parent international application for continuity purposes, applicant's reply should include a new petition for revival that is clear in its desire to revive the international application and which includes a new statement under 37 CFR 1.137(b)(3) which is also clearly directed to the abandoned international application. No additional petition fee is required.

Please direct further correspondence with respect to this matter to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

15 SEP 2006

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
117 Avenue Of The Americas (6th Avenue)
New York, New York 10136-2714

In re Application of: GUNDLACH, Harald, et al. U.S. Application No.: 10/917,554 Filing Date: August 12, 2004 Attorney's Docket No.: E0196.0020 For: PROCESS FOR PRODUCING A STRUCTURED METAL LAYER ON A SUBSTRATE BODY, AND SUBSTRATE BODY HAVING A STRUCTURED METAL LAYER	DECISION ON RENEWED PETITION UNDER 37 CFR 1.137(b) 09/15/2006 SBASHEIR 00000001 10917554 01 FC:1453 1330.00 OP

This decision is issued in response to the "Request For Reconsideration" and accompanying materials filed December 15, 2004, treated herein as a renewed petition under 37 CFR 1.137(b). Applicants have paid the required petition fee.

BACKGROUND

International application PCT/DE02/03305 became abandoned with respect to the United States under 35 U.S.C. 371(d) at midnight on March 17, 2004 (thirty days after the priority date)

On August 12, 2004, applicants filed the present application under 35 U.S.C. 111(a) as a continuation of international application PCT/DE02/03305, accompanied by a petition for revival under 37 CFR 1.137(b).

On October 15, 2004, this Office mailed a decision dismissing applicants' petition for revival for failure to specify the application to which it was directed.

On December 15, 2004, applicants filed the "Request For Reconsideration" considered herein, which was accompanied by a revised petition for revival under 37 CFR 1.137(b) that clearly indicated the application to which it was directed. Specifically, the petition seeks revival of PCT/DE02/03305 in order to establish continuity between the international application and the present continuation application.

DISCUSSION

All the requirements for revival under 37 CFR 1.137(b) have been submitted. The revised petition expressly references PCT/DE02/03305. The petition includes a statement that "the entire delay in filing the required reply from the due date of the required reply until the filing of a

grantable petition under 37 CFR 1.137(b) was unintentional," satisfying the requirement of 37 CFR 1.137(b)(3), and the filing of the present continuation application under 35 U.S.C. 111(a) is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP section 711.03(c).

International application PCT/DE02/03305 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/914,554.

CONCLUSION

The revised petition for revival under 37 CFR 1.137(b) is **GRANTED**.

International application PCT/DE02/03305 is being revived for purposes of continuity only, and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/914,554.

Richard M. Ross
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OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS 6TH AVENUE
NEW YORK NY 10036-2714

In re Application of :
Gundlach, et al. : DECISION ON PETITION
Application No. 10/917,554 :
Filed: August 12, 2004 :
For: E0196.0020 :

This is a decision on the petition to expunge under 37 CFR 1.59 and the petition for refund, filed December 11, 2006.

DECISION UNDER 37 CFR 1.59

The petition under 37 CFR 1.59 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.59(b)." This is not a final agency decision.

Petitioners indicate that the documents unintentionally filed October 10, 2006 in the instant application were intended to be filed as a separate divisional application.

Petitioners indicate that the papers in question filed on October 10, 2006 included: (1) "New or Additional Drawing Filed," (2) "Oath or Declaration Filed (Including Supplemental)," (3) "Preliminary Amendment," and (4) "Information Disclosure Statement (IDS) Filed."

Petitioner indicates that these documents are identified in PAIR as: (1) "Fee Worksheet (PTO-875)," (2) "Information "Information Disclosure Statement (IDS) Filed," (3) "Fee Worksheet (PTO-875)," (4) "Status Letter Mailed to Applicant," (5) "Miscellaneous Incoming Letter," (6) "Specification," (7)"Claims," (8) "Abstract," (9) "Drawings," (10) "Application Data Sheet," (11) "Preliminary Amendment," (12)"Specification," (13)'Claims," (14)"Applicant Arguments/Remarks Made in an

Amendment," (15) "Oath or Declaration filed," (16) "Power of Attorney."

Petitioners argue that the Office can effect the return of the information filed October 10, 2006 prior to the issuance of this patent because the application is still pending; the information was unintentionally submitted in this application, and the failure to obtain its return would cause irreparable harm to petitioner; the filing of the divisional application has not otherwise been made public; petitioner commits to retain the information for the period of any patent with regard to which such information is submitted; and the information to be returned is not material information under 37 CFR 1.56.

The request for expungement of information unintentionally submitted is properly addressed under 37 CFR 1.59(b).

In accordance with 37 CFR 1.59(b), "[a]n applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(g) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided."

In accordance with MPEP 724.05, "[a] petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that: (A) the Office can effect such return prior to the issuance of any patent on the application in issue; (B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted; (C) the information has not otherwise been made public; (D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted; (E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and (F) the petition fee as set forth in 37 CFR 1.17(g) is included."

The instant petition fails to satisfy item (C) in that petitioners indicate that the information in question was intended to be filed as a divisional application and that a divisional application, namely, U.S. App. No. 11/608,663, was filed December 8, 2006. Thus, the information contained in the documents sought to be expunged has seemingly already been made public, U.S. App. No. 11/608,663 having published April 12, 2007 under publication number US20070082127A1.

Accordingly, expungement of the documents filed October 10, 2006 is not appropriate, given the information in question has been subject to publication.

DECISION UNDER 37 CFR 1.26

Petitioners request a refund of the $1,000.00 filing fees incorrectly paid in October 2006.

The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee. *See*, 37 CFR 1.26.

Petitioners' arguments have been carefully reviewed and found convincing. In view thereof, it is found that the fees submitted in October 2006 were submitted by mistake. A refund will issue in due course.

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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EAST HANOVER NJ 07936-1080

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OFFICE OF PETITIONS

In re Application of :
Dia CHENG, et al. :
Application No. 10/917,578 :
Filed: August 13, 2004 :
Attorney Docket No. P1106US30 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed August 29, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 30, 2006. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1624 for appropriate action by the Examiner in the normal course of business on the reply received September 21, 2007.

April Wise
Petitions Examiner
Office of Petitions

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

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In re Application of	:	
Yasuji Takagi, et. al.	:	
Application No. 10/917,588	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 45762/304013	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on December 11, 2006, to revive the above-identified application.

The above application became abandoned for failure to reply to the final Office action mailed June 8, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $790 filing fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 2627.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/22/2010

Applicant	: Partho P. Mishra	: DECISION ON REQUEST FOR
Patent Number	: 7606213	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/917,595	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **820** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CISLO & THOMAS, LLP
233 WILSHIRE BLVD
SUITE 900
SANTA MONICA, CA 90401-1211

In re application of
Ara Dionysian et al.
Application No. 10/917,607
Filed: August 13, 2004
For: CABINET DOOR LOCKING SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on August 13, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed declaration indicating Mr. Dionysian is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 02/02/05

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OFFICE OF PETITIONS

In re Application of Turek et al. Application Number: 10/917611 Filing Date: 08/13/2004 Attorney Docket Number: 6535-A-01	: : : : : :	DECISION ON PETITION

This is a decision on the petition filed on 16 August, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application became abandoned on 31 August, 2006, for failure to timely respond to the non-final Office action mailed on 30 May, 2006, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 4 January, 2007.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Receipt of the amendment filed with the present petition is acknowledged.

This application is being forwarded to Technology Center Art Unit 1732 for further processing.

---

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: FITCH, EVEN TABIN & FLANNERY
120 SOUTH LASALLE ST
SUITE 1600
CHICAGO IL 60603

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

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MAY 06 2008

OFFICE OF PETITIONS

In re Application of :
David L. Henrickson :
Application No. 10/917,631 : ON PETITION
Filed: August 13, 2004 :
Attorney Docket No. Eisenworld 2003-3 :

This is a decision in response to the petition, filed December 21, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 11, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 12, 2007. A Notice of Abandonment was mailed on August 21, 2007. On December 21, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of 1,540; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2113 for consideration of the amendment filed December 21, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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FEB 06 2008

OFFICE OF PETITIONS

In re Application of	:	
Henrickson, David L.	:	
Application No. 10/917,637	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 317068.01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 28, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2166 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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FEB 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Hendrickson, David L.	:	
Application No. 10/917,638	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 317069.01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

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MAR 20 2008

In re Application of	:
HENRICKSON, David L.	:
Application No. 10/917,638	: DECISION GRANTING PETITION
Filed: August 13, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **317069.01**	:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 18, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 14, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2114 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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JOSEPH A TESSARI
TREDEGAR FILM PRODUCTS
1100 BOULDERS PARKWAY
RICHMOND VA 23225

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OCT 12 2006

OFFICE OF PETITIONS

In re Application of :
Middlesworth et al. :
Application No. 10/917,642 :
Filed: August 13, 2004: :
Attorney Docket No. Tred 04/002 (AT 22424-5) :

ON PETITION

This is a decision on the petition under 37 CFR §1.181(a) to withdraw the holding of abandonment, filed July 13, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed October 19, 2005. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on January 20, 2006. A Notice of Abandonment was mailed on June 6, 2006.

Petitioner asserts that the non-final Office Action mailed on October 19, 2005 was never received. A review of the record indicates the non-final Office Action was mailed to an incorrect correspondence address. Petitioner submitted a Power of Attorney, change of correspondence address and statement under 37 CFR 3.73(b) on October 12, 2005. A review of the record shows that a copy of the change of correspondence address was received and entered pursuant to the acknowledgment mailed on October 17, 2005. However, at some point the address was improperly changed. Thus, the non-final Office Action was improperly mailed.

This application is being forwarded to Art Unit 3761 for re-mailing of the non-final Office Action to the current correspondence address of record. The non-final Office Action extendable period for reply will start upon the re-mailing of the Office Action.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant

Petitions Attorney

Office of Petitions

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July 2005

BERNARD S. HOFFMAN
460 OLD TOWN ROAD, SUITE 7F
PORT JEFFERSON STATION, NY 11776

AUG 26 2005

In re Application of: WARREN RIDGELAND Serial No.: 10/917,671 Filed: 14 August 2004 Title: NOVELTY ITEM FOR COOPERATING WITH A CAP OF A BOTTLE SUBSEQUENT TO COOPERATION OF THE CAP WITH A BOTTLE OPENER BUT PRIOR TO COOPERATION OF THE CAP WITH A CAP CATCHER	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

This is a decision on the petition filed on September 10, 2004, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **GRANTED**.

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that a pre-examination search was made, including the search areas; and c) a detailed discussion of each of a number of references submitted as being pertinent to patentability, pointing out how the claimed subject matter is distinguishable over those references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a petition with the following showing is required: a) a petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the (non-US) references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The claims appear to be drawn to a single invention; therefore, the requirements of MPEP § 708.02(VIII)(a) – (e) are considered to have been met.

For the above-mentioned reasons, the petition is granted. The application will be advanced out of turn for examination, and will continue to be treated as special throughout the entire prosecution in the Office according to the procedure set forth in MPEP § 708.02(VIII).

The delay in considering the petition and issuance of this decision is regretted.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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SEP 19 2005

OFFICE OF PETITIONS

In re Application of
Joseph H. Clearman et al
Application No. 10/917,691
Filed: August 13, 2004
Attorney Docket No. CLEA/0010

DECISION ON PETITION
TO MAKE SPECIAL
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c), filed November 9, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section IV: Applicant's Age.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c), MPEP § 708.02, Section IV: Applicant's Age must be accompanied any evidence showing that the applicant is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition does not include evidence showing that applicant is 65 years of age, or more, such as a copy of a birth certificate or other document showing date of birth.

Accordingly, the petition is dismissed as failing to present sufficient evidence that the applicant is 65 years of age or more.

Telephone inquires concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The application is being forwarded to the Technology Center Art Unit 3752 for action in its regular turn.

Amelia Au
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GENE SCOTT; PATENT LAW & VENTURE GROUP
3140 RED HILL AVENUE
SUITE 150
COSTA MESA CA 92626-3440

In re Application of :
Landon Duval :
Application No. 10/917,694 :
Filed: August 12, 2004 :
For: **STEERING WHEEL VAPOR COLLECTION AND SENSING SYSTEM USING A CHEMICAL ELEMENT** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed September 6, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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HEWLETT PACKARD COMPANY
P O BOX 272400 3404 E HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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MAR 20 2008

OFFICE OF PETITIONS

In re Application of	:	
Dean Depay	:	
Application No. 10/917,704	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 200404360-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2008, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to timely file a response to the Notice of Non-Compliant Amendment mailed October 18, 2007. This Office action set an extendable period for reply of one month. No extensions of time were obtained. Accordingly, no reply having been received, the application became abandoned on November 19, 2007. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The matter is being forwarded to Group Art Unit 3632 for consideration of the Amendment filed February 12, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

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APR 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Dean et al.	:	
Application No. 10/917,739	:	DECISION ON PETITION
Filed: August 13, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 060963-5017-US	:	

This is a decision on the petition, filed February 8, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. A review of the file record shows that a Request to Rescind was filed on February 8, 2007. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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PALO ALTO CA 94306

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OFFICE OF PETITIONS

In re Application of	:	
Dean et al.	:	
Application No. 10/917,739	:	DECISION GRANTING PETITION
Filed: August 13, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 060963-5017-US	:	

This is a decision on the renewed petition, filed April 26, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on August 5, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of September 20, 2007, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 2167 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/917,739	08/13/2004	Jeffrey Dean	060963-5017-US

CONFIRMATION NO. 4172

24341
MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

Date Mailed: 06/08/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 09/20/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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Paper No.

Thomas E. Watson
WOODCOCK WASHBURN LLP
One Liberty Place – 46th Floor
Philadelphia, PA 19103

MAILED

JUN 2 5 2005

Technology Center 2100

In re Application of:
Raymond P. Stata and
Patrick David Hunt
Application No. 10917,742
Filed: August 13, 2004
For: SYSTEMS AND METHODS FOR UPDATING QUERY RESULTS BASED ON QUERY DELTAS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed May 26, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed May 26, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

JM Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Customer No. 29989

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

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DEC 23 2005

OFFICE OF PETITIONS

In re Application of
Ely K. Tsern, et al.
Application No. 10/917,748
Filed: August 13, 2004
Attorney Docket No.: 60809-5024-US

ON PETITION

This is a decision on the petition, filed December 16, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 30, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 22827 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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DIW 12-04

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 WILSHIRE BLVD.
7TH FLOOR
LOS ANGELES CA 90025-1026

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DEC 07 2004

OFFICE OF PETITIONS

In re Application of	:
Lee et al.	: DECISION GRANTING
Application No. 10/917,756	: PETITION
Filed: 12 August, 2004	:
Att'y Dkt No. 003364.P181	:

This is a decision on the petition filed on 1 October, 2004, under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 12 August, 2004.

Petitioners allege that the application was deposited in Express Mail service on 12 August, 2004. In support, on 1 October, 2004, petitioners supplied a copy of USPS Express Mail Post Office to Addressee Customer Label No. EV372848528US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). Although the pickup date on the copy of the USPS Express Mail Customer Label provided is illegible, a search of the USPS Internet Track & Confirm Database reveals that this Express Mail Label No. was accepted by the USPS on 12 August, 2004.

In view of the above, the petition is granted. No petition fee is required.

A review of Office records reveals that this application has been accorded a filing date of 12 August, 2004. A filing receipt is enclosed for petitioners' reference.

The application is being referred to Technology Center 2600 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Replacement Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAYNES AND BOONE
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202-3789

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Krishna Kurapati et al	:	
Application No. 10/917,771	:	DECISION ON PETITION
Filed: August 13, 2004	:	TO WITHDRAW
Attorney Docket No. 34919.4	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 8, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Timothy F. Bliss and all attorneys/agents of record who are associated with customer No. 000027683 have been revoked by the assignee of the patent application on February 21, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

This application is being referred to Technology Center AU 2154.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: CHALKER FLORES
2711 LBJ FRWY
SUITE 1036
DALLAS, TX 75234

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BUCHANAN, INGERSOLL & ROONEY, PC
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

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FEB 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Martin J. Jopez et al.	:	
Application No. 10/917,778	:	DECISION ON PETITION
Filed: August 13, 2004	:	TO WITHDRAW
Attorney Docket No. 040375	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed February 4, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Duane A. Stewart, III on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn.

The request to change the correspondence address has been changed and is copied below.

Applicant is reminded that there is no attorney of record at this time.

There are no outstanding Office actions in this case.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Martin Munzer
Cygene, Inc.
7786 Wiles Road
Coral Springs, FL 33067

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/917,778	08/13/2004	Martin J. Lopez	040375

CONFIRMATION NO. 3887

POWER OF ATTORNEY NOTICE

23464
BUCHANAN INGERSOLL & ROONEY PC
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

OC000000028295889

Date Mailed: 02/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/04/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 2 5 2005

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MAR 2 5 2005

OFFICE OF THE DIRECTOR
TC 3600

RICHARD K THOMSON, ATTORNEY
7691 Fairlane Drive
Fairview, PA 16415

In re application of
Jeffrey Zehner et al.
Application No. 10/917,783
Filed: August 14, 2004
For: MAGIC BEAN WISHES

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed February 28, 2005 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed February 28, 2005 lacks requirement 2(C) above. Regarding requirement 2(C), the applicant, assignee or attorney, in addition to stating that a careful search of the prior art has been made, or having good knowledge of the prior art, **must** submit the **most closely** related prior art. Since "most closely related" is the **best** of the art found, a submission of art is always required, even if the applicant feels that it is not specifically related to the invention.

In view of these deficiencies, the petition is **DISMISSED**.
Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/pav: 03/14/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 2 2005

RICHARD K. THOMSON, ATTORNEY
7691 Fairlane Drive
Fairview, PA 16415

In re application of Jeffrey Zehner et al. Application No. 10/917783 Filed: August 14, 2004 For: MAGIC BEAN WISHES	: : : :	**DECISION ON RENEWED PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the renewed petition under 37 C.F.R § 1.102(d) filed April 26, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The original petition of February 28, 2005 was dismissed on March 25, 2005 for failing to satisfy condition 2(C) above. The renewed petition satisfies the above deficiency.

The renewed petition filed April 26, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/pav: 05/05/05

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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OFFICE OF PETITIONS

In re Application of	:	
Blank, et al.	:	
Application No. 10/917,802	:	DECISION DISMISSING PETITION
Filed: August 12, 2004	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. IMET0045CIP-D	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 1, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED** .

The petition is not acceptable because it has not been signed by a proper party or parties. The petition will not be treated because the petition is not signed by either (1) all the named inventors, (2) the owner of the invention (the assignee), or (3) a registered attorney or agent duly appointed by the inventors or owners, as is required by 37 CFR 1.33 (b).

It is unclear who the inventive entity is. The executed declaration in the application file (from a prior application) lists Blank, Acosta, Mattu, Makarewicz, Monfre, Lorenz, and Ruchti as inventors. Blank, Lorenz, Ruchti, and Kevin H. Hazen signed the instant petition. Kevin H. Hazen is not listed as an inventor on the one declaration present in the application file.

The copy of the executed oath or declaration submitted under 37 CFR 1.63(d)(2) for a continuation or divisional application must have been accompanied by a statement requesting the deletion of the name or names of the person or persons who are not inventors in the continuation or divisional application. The undersigned cannot locate such a statement.

Further, if Kevin H. Hazen is an inventor of the present invention, an executed oath or declaration must have been submitted with the filing of the application. If the inventors in this application are different from the inventors set forth in the declaration accompanying the present

application, then a petition under 37 CFR 1.48(a) would now be the appropriate avenue for setting forth the correct inventive entity.

A decision on the merits of the petition and amendment to the specification to include the prior-filed applications will not be undertaken until such time as clarification of the inventive entity has been satisfied.

Any request for reconsideration of this decision should include a renewed petition under 37 CFR 1.178(a)(3) and (a)(6).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Blank, et al.	:	
Application No. 10/917,802	:	DECISION DISMISSING PETITION
Filed: August 12, 2004	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. IMET0045CIP-D	:	

This is a decision on the reconsideration petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 15, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED** .

While the petition has been signed by a proper party, Registered Practitioner Michael A. Glenn, the petition will not be treated because the identity of the inventive entity is still not clear.

The Preliminary Amendment filed on May 15, 2006 states in the second paragraph, "The correct inventive entity is shown on the attached copy of the signed Oath and Declaration." Unfortunately, the undersigned cannot locate the copy of the signed Oath and Declaration in the application file. Without knowing the identity of the inventive entity, it is not possible to address the merits of the reconsideration petition.

As stated in the April 14, 2006 decision on petition, " A decision on the merits of the petition and amendment to the specification to include the prior-filed applications will not be undertaken until such time as clarification of the inventive entity has been satisfied."

Further correspondence with respect to this matter should be addressed as follows:

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Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Blank, et al.	:	
Application No. 10/917,802	:	DECISION DISMISSING PETITION
Filed: August 12, 2004	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. IMET0045CIP-D	:	

This is a decision on the reconsideration petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 7, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the amendment filed June 20, 2006.

The petition is **DISMISSED** .

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing

date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. §§ 120 and 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

In addition, the wording of the third paragraph of the amendment with respect to PCT application no. PCT/US02/02288 is not acceptable. The amendment should state that application no. 10/297, 736, filed January 25, 2002, is the national stage entry of PCT application no. PCT/US02/02288....

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 or 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

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401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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In re Application of	:	
Blank, et al.	:	
Application No. 10/917,802	:	DECISION GRANTING PETITION
Filed: August 12, 2004	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. IMET0045CIP-D	:	

This is a decision on the reconsideration petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 29, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED** .

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional

application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 3768 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/917,802	08/12/2004	3768	385	IMET0045CIP-D	5	12	1

CONFIRMATION NO. 4202

CORRECTED FILING RECEIPT

OC000000021117293

22862
GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

Date Mailed: 11/06/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Thomas B. Blank, Chandler, AZ;
George Acosta, Phoenix, AZ;
Mutua Mattu, Gilbert, AZ;
Marcy Makarewicz, Chandler, AZ;
Stephen L. Monfre, Gilbert, AZ;
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Power of Attorney:

Michael Glenn--30176
Donald Hendricks--40355
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Christopher Peil--45005
Julia Thomas--52283

Domestic Priority data as claimed by applicant

This application is a DIV of 10/170,921 06/12/2002
which is a CIP of 09/563,782 05/02/2000 PAT 6,415,167
This application 10/917,802
is a CIP of 10/349,573 01/22/2003 PAT 7,039,446
which claims benefit of 60/382,433 05/20/2002
This application 10/917,802
is a CIP of 10/384,023 03/07/2003 PAT 7,010,336
which is a CIP of 09/630,201 08/01/2000 PAT 6,871,169
which is a CIP of 09/610,789 07/06/2000 ABN
which is a CIP of 08/911,588 08/14/1997 PAT 6,115,673
and said 10/384,023 03/07/2003

claims benefit of 60/362,899 03/08/2002
and said 10/349,573 01/22/2003
is a CIP of 10/297,736 10/27/2003 PAT 6,990,364
which is a 371 of PCT/US02/02288 01/25/2002
which claims benefit of 60/264,431 01/26/2001
and said 10/349,573 01/22/2003
claims benefit of 60/363,345 03/08/2002

Foreign Applications

If Required, Foreign Filing License Granted: 10/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/917,802

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Optical sampling interface system for in vivo measurement of tissue

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Martin T. Sunstrum	: DECISION ON REQUEST FOR
Patent Number	: 7599355	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/917,814	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1360** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FEB 06 2006

OFFICE OF PETITIONS

DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE WA 98101-1688

Applicant: Gibbons et al.
Appl. No.: 10/917,825
Filing Date: August 13, 2004
Title: METHODS AND APPARATUS FOR DYNAMICALLY ASSIGNING TIME SLOTS IN A WIRELESS COMMUNICATION SYSTEM
Attorney Docket No.: 65187-177
Pub. No.: US 2005/0088990 A1
Pub. Date: April 28, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 8, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error, as the preliminary amendment to the drawings was included in the publication but the preliminary amendment to the specification filed on February 11, 2005, was not included in the patent application publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The patent application publication does not include a mistake in the publication by the Office because patent application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a)[2], which says the following, in part:

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

[2] Changes to Suport Implementation of the United States Patent and Trademark Office 2st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

> (a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b), amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun.

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office has recently changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until this past year, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004). The preliminary amendment filed February 11, 2005 did not comply with 37 CFR 1.125. The applicant did not supply a copy of the application in compliance with 37 CFR 1.215(c). The Office correctly published the application in accordance with 37 CFR 1.215(a).

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicant's request for a corrected patent application publication on June 8, 2005, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

It would greatly benefit the Office if applicant did not provide a complete copy of the preliminary amendments and a copy of the pre-grant publication, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request. If it is not clear why the error is a material error, further explanation may be warranted.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.
Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mail Date: 05/10/2010

Applicant	: Mikael Jaakkola	: DECISION ON REQUEST FOR
Patent Number	: 7616974	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/917,831	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **714** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FRANK ROSENBERG
P.O. BOX 29230
SAN FRANCISCO CA 94129-0230

DEC 20 2007

In re Application of:
Hesse, David J. et al
Serial No.: 10/917,836
Filed: Aug. 13, 2004
Docket: 04-054
Title: DETONATION SAFETY IN MICROCHANNELS

DECISION ON PETITION TO ENTER AMENDMENT AFTER FINAL

This is a decision on the petition filed on Nov. 10, 2007 to enter the declaration under 37 CFR § 1.132 filed on Sep. 1, 2007 after the final Office action issued on Mar. 08, 2007. The petition is filed under both 37 CFR § 1.181 and 37 CFR § 1.182.

Initially, it is pointed out that the petition is requesting two different forms of relief by petitioning under two different rules. This is impermissible under 37 CFR § 1.4(c). This decision will only address the issues under 37 CFR § 1.181. No fee is required under this section.

The petition is dismissed.

In the petition the applicant requests a review of the examiner's refusal to enter the 37 CFR § 1.132 declaration filed on Sep. 01, 2007 after the final rejection was mailed on Mar. 08, 2007. In the advisory action of Sep.18, 2007, the examiner refused to enter the Declaration filed after final Office action because the applicants failed to provide a showing of good and sufficient reasons why the Declaration was not presented prior to the final Office action of Mar. 8, 2007.

The record shows that:

1) On Mar. 08, 2007, the examiner issued a final Office action rejecting all claims pending in the case. The applicant did not dispute the propriety of the final Office action of Mar. 8, 2007.
2) In response to the final Office action, on Jul. 9, 2007, the applicant filed an amendment after final with arguments directed to references applied in the final Office action, in particular, that they fail to teach or suggest the use of a "detonable gas mixture". The applicant also included an article by Bauer, title "Experimental Investigation on flame and detonation quenching: applicability of static flame arresters," Journal of Loss Prevention in the Process Industries, pp63-68 (2005).
3) In the Advisory Action of July 24, 2007, the examiner responded to the applicant's arguments advanced by stating the applicant has not demonstrated that the gas mixtures in the cited references are not indeed 'detonatable'.
4) On Sep. 01, 2007, the applicant submitted the current Declaration by David Hesse demonstrating that the gases are not necessarily detonable.

5) In the Advisory Action of Sep.18, 2007, the Examiner refused to enter the declaration on the ground that the applicants failed to provide a showing of good and sufficient reasons why the declaration was not presented prior to the Final Rejection
6) On Nov. 10, 2007, the present petition was filed to request entry of the 37 CFR § 1.132 declaration filed on Sep. 01, 2007 after the final Office action.

Discussion and Analysis

The relevant portion of 37 CFR § 1.116 that controls in the decision, states:

> § 1.116 Amendments and affidavits or other evidence after final action and prior to appeal.
> (e) An affidavit or other evidence submitted after a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913 but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title), may be admitted upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented.

In the petition, petitioner contends that the information contained in the 37 CFR §1.132 Declaration could not have been presented prior to or earlier than the final Office action because in the advisory action of Jul. 24, 2007 the examiner for the first time stated that applicants were required to show that the gases in the cited references were not "inherently detonable". Contrary to petitioner's remarks that the examiner's advisory remarks of Jul. 24, 2007 are a requirement by the examiner to show that the gases in the cited references are not inherently detonable, the remarks were responsive to the arguments of Jul. 9, 2007 formulated and presented by applicants only after prosecution on the merits was closed in the final Office action.

In response to the final rejection, it is argued on page 10 of the response of Jul. 9, 2007 "None of the cited references teach or suggest the use of a 'detonable gas mixture'. Nor would it have been obvious to modify these references with the use of a 'detonable gas mixture.' Schwank, Hailstone and Roth concern radiant burners. Radiant burners need a flammable fuel mixture, but not a detonable gas mixture." The examiner responded in his Jul. 24, 2007 advisory action that: "However, applicant has not demonstrated that the gas mixtures in US002775294 (Schwank), US003324924 (Hailstone et al), US005249953 (Roth) andUS001965771 (Grol et al) are not indeed 'detonatable'. That is, wherein the 'detonable gas mixture' is a combustible gas mixture that can ignite, and, in a suitably large space in the presence of a suitable initiator, result in a flame speed exceeding Mach number 1 (e.g. - the speed of sound in air)." It appears that the information presented in the 37 CFR §1.132 declaration of Sep. 18, 2007 was presented by applicant in response to advisory comments made by the examiner in the first advisory action of Jul. 24, 2007, rather than in response to matters which applicant had no prior opportunity to respond.

Therefore, it is concluded that 37 CFR §1.132 declaration of Sep. 18, 2007 should not be entered on the ground that the applicants failed to provide a showing of good and sufficient reasons why the Declaration was not presented prior to the final Office action of Mar. 8, 2007.

Petitioner also argues that the 37 CFR §1.132 declaration should not be refused entry based on advisory remarks made by the examiner responding to arguments presented by applicants' only after prosecution on the merit was closed. It must be noted on page 8 of the remarks accompanying the 37 CFR §1.132 Declaration of Sep. 18, 2007, applicant acknowledges the Declaration addresses an "issue" (detonability)

"present throughout prosecution". This indicates applicant had prior opportunity to present information relevant to the issue of detonability prior to the final Office action of Mar. 8, 2007.

Petitioner also is of the opinion that it is improper procedure for the Patent Office, in an Advisory Action, to introduce new arguments and state that applicants haven't presented evidence to refute these arguments; and then refuse to consider the evidence that applicants presented in response to the new arguments raised in the Advisory Action. This argument is not convincing. As explained above, in the examiner's first advisory action of Jul. 24, 2007, there was no new argument advanced by the examiner, except answers to the applicant's arguments made on Jul. 9, 2007 amendment.

Petitioner also argues that the USPTO has the burden to show that a feature is inherent in accordance with MPEP §2112(IV). In this case, the examiner did not provide any significant showing to establish inherency of whether a gas mixture was inherently detonable. This is an appealable issue which the petitioner should file an appeal to the Board of Patent Appeals and Interferences.

Lastly, while the merits of the petition have been decided upon as a general courtesy, it is noted that the petition was filed Nov. 10, 2007, after the Notice of Appeal was filed, which was on Sep. 08, 2007, and for this reason alone is dismissible as untimely. See 37 CFR § 1.116 (e).

Conclusion

For the foregoing reasons, the relief requested by petitioners will not be granted. Specifically, the examiner's refusal admitting the 37 CFR §1.132 Declaration of Sep. 1, 2007 after final is proper.

Petitioner is reminded that this decision does not address any issue arising under 37 CFR § 1.182 because to do so would contravene the requirement of 37 CFR § 1.4(c), which the undersigned is without authority to waive. A petition under 37 CFR § 1.182, if deemed appropriate by applicant, should be separately filed and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02.

The application is being forwarded to Examiner Price of Art Unit 3749 awaiting applicant's appeal brief. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136 (a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION DISMISSED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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4/11/08

FRANK ROSENBERG
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SAN FRANCISCO CA 94129-0230

In re Application of:
Hesse, David J. et al
Serial No.: 10/917,836
Filed: Aug. 13, 2004
Docket: 04-054
Title: DETONATION SAFETY IN MICROCHANNELS

DECISION ON PETITION TO REQUEST ENTRY OF DECLARATION ATER FINAL

This is a decision on the renewed petition filed on Jan. 10, 2008 to request entry of the 37 CFR § 1.132 declaration submitted on Sep. 1, 2007. The renewed petition is being considered pursuant to 37 CFR § 1.181 and no fee is required for the petition. The previously paid petition fee $130.00 shall be refunded upon request.

The petition is **DISMISSED as moot**.

In the renewed petition, petitioner requests entry of the 37 CFR 1.132 declaration submitted on Sep. 1, 2007 because the applicant did not have an opportunity to submit the declaration prior to the final rejection Mar. 8, 2007. This issue was previously addressed in the decision mailed on Dec. 20, 2007. Furthermore, it was pointed out the original petition filed Nov. 10, 2007 was also untimely (see 37 CFR § 1.116 (c). No comments were made in the renewed petition.

On Feb. 8, 2008, the applicants also filed a Request for Continuing Examination. With respect to a Request for Continuing Examination, 37 CFR § 1.114(d) states: if an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered.

A review of the record indicates that the applicants timely filed a submission and paid the fees set forth in § 1.17(e). Therefore the Request for Continuing Examination was entered and the finality of the Office Action mailed on Mar. 8, 2007 was operatively withdrawn. The examiner is directed to enter and consider the 37 CFR 1.132 declaration submitted on Sep. 1, 2007. The applicants are now able to argue the merits of the examiner's rejections in subsequent amendments and declarations.

In view that the contested claims are now pending before the examiner and the declaration has been entered, the petitioner's request for relief is moot. The relief the applicant requested, namely the entry of the declaration and withdrawal of the finality of the Mar.8, 2007 Office Action, have already occurred. Therefore, the petition to enter of declaration of the Sep. 1, 2007 Office Action is dismissed as moot.

PETITION DISMISSED AS MOOT.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856

Frederick R. Schmidt, Director
Technology Center 3700

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APR 0 4 2006

OFFICE OF PETITIONS

Applicant: Steward et al.
Appl. No.: 10/917,844
Filing Date: August 13, 2004
Title: GFP-SNAP25 FLUORESCENCE RELEASE ASSAY FOR BOTULINUM NEUROTOXIN PROTEASE ACTIVITY
Attorney Docket No.: 066872-0044
Pub. No.: US 2005/0100973 A1
Pub. Date: May 12, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on June 29, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of	:	
Russell S. Thornton et al	:	
Application No. 10/917,845	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 5166.11 P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 28, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 29, 2008.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2134 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

JAMES A HARRISON
GARLICK HARRISON & MARKISON
P.O. BOX 670007
DALLAS TX 75367

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SEP 17 2008

OFFICE OF PETITIONS

In re Application of :
El-Beik et al. : DECISION ON PETITION
Application No. 10/917,856 :
Filed: August 13, 2004 :
Atty Docket No. 16291RRUS03U :

This is in response to the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)" filed May 16, 2008. In the alternative, pursuant to 37 CFR 1.181, applicant requests that the Office withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee[1] within three months of the mailing date, November 15, 2007, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. A courtesy Notice of Abandonment was mailed on March 13, 2008.

In response, the instant petition was filed. Petitioner attributes the abandonment of the application to the USPTO failing to mail the Notice of Allowance to the correspondence address of the attorney of record and instead erroneously mailing it to an address of the assignee, Nortel Networks, that is not used for official correspondence. Thus, the Notice was belatedly received by the attorney of record and the issue fee and publication fee were not timely paid.

[1] There was no separate but concurrent requirement for corrected drawings.

Petitioner's arguments have been considered and the record has been carefully reviewed. It is concluded that the presumption that the Office properly mailed the Notice of Allowance mailed November 15, 2007 to the applicant at the correct correspondence address of record is overcome. The application as filed and the declaration filed January 11, 2005 both directed the Office to enter the correspondence address of record as that of Garlick Harrison & Markison law firm. A review of the record reveals that the Office erred in entering the power of attorney filed May 16, 2005. Instead of, as properly requested by the assignee, appointing the attorneys associated with customer no. 49,403 (including attorney Harrison), the Office changed the correspondence address of record to that of 49,403. This error occurred despite the fact that attorney of record Harrison filed therewith a transmittal letter requesting entry of a power of attorney and stating therein to continue to direct correspondence to his address. Given this error, the Notice of Allowance was improperly mailed to the address of the assignee. Under the circumstances, withdrawal of the holding of abandonment is warranted.

In view thereof, the Notice of Abandonment mailed March 13, 2008 and holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

As consideration of the petition under 37 CFR 1.137(a) was unnecessary, the fee for such consideration is being refunded.

The correspondence address has been changed back to that of attorney Harrison and the power of attorney has been associated with Customer Number 49403. It is noted that the issue fee transmittal as filed with this petition sets forth the assignee address. If applicant wishes to have this as the correspondence address, such that the patent is mailed to the assignee address, it is recommended that a change of correspondence address be filed. Even if the patent is to be mailed to the address of attorney Harrison, the undersigned cannot guarantee that the address will not be changed to that of the assignee based on the issue fee transmittal. Thus, applicant may wish to file (and track entry of) a change of correspondence address to make clear the address to which any issued patent should be mailed. (It is noted that the filing of a change of correspondence address is

not a failure to engage within the meaning of 37 CFR 1.704(c)(10)).

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for processing into a patent, given the submission of the issue fee transmittal and payment of the issue fee and publication fee on petition filed May 16, 2008.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE #700
7TH FLOOR
SAN DIEGO CA 92122

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OFFICE OF PETITIONS

In re Application of	:	
THISTLE, Richard et al.	:	
Application No. 10/917,858	:	DECISION ON PETITION
Filed: August 13, 2004	:	TO WITHDRAW
Attorney Docket No. **39930-0006B**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 14, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Steven Moore on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MANUEL F. DE LA CERRA**
LAW OFFICES OF MANUEL DE LA CERRA
6885 CALAMARAN DRIVE
CARLSBAD, CA 92011

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Russell S. Thornton et al	:	
Application No. 10/917,861	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 5166.2 P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 8, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 9, 2008.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2132 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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JUL 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Thornton RUSSELL S. et al.	:	
Application No. 10/917,862	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 5166.7 P	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 06, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 06, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 07, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00 and publication fee of $300.00; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

CC: **DANIEL MCCARTHY**
2053 PINETREE VILLAGE
BRIGHTON, UT 84121

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Russell S. Thornton et al	:	
Application No. 10/917,863	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 5166.12 P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 25, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 26, 2008.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2432 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Joseph Castellone, et al. :
Application No. 10/917,878 :
Filed: August 13, 2004 :
Attorney Docket No. 04692-039001 :

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS MI 48304-5151

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JAN 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Wayne Knepp et al. :
Application No. 10/917,901 : ON PETITION
Filed: August 13, 2004 :
Attorney Docket No. 14,761,039 :

This is a decision on the petition filed December 6, 2007, to withdraw the holding of abandonment, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513. The petition is being treated under 37 CFR 1.181.

The petition under 37 CFR 1.181(b) is **DISMISSED.**

This application became abandoned October 15, 2007 for failure to timely reply to the Notice of Allowability mailed July 12, 2007 requiring the filing of Corrected Drawings and which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed November 6, 2007. Although the file record discloses that the Notice was mailed with the Notice of Allowance to what was believed to be the address of record, petitioner contends that the Notice of Allowance was received but not the Notice of Allowability.

While petitioners have provided copies of their docket, with an entry for the payment of the issue fee but not an entry for the for the filing of corrected drawings, the evidence presented is not convincing that instead of non-receipt perhaps a docket entry occurred, especially since the documents are mailed together.

The docket report provided covers a period from June 1, 2007 through December 31, 2007 and while the docket record provided is for other patent matters there is not one entry for any patent matter requiring the filing of corrected drawings, it can't be determined from the evidence provided if separate entries would be made for corrected drawings and issue fees due.

As non-receipt has not been established, this application became properly abandoned

October 15, 2007 for failure to timely file Corrected Drawings in response to the Notice of Allowability, mailed July 12, 2007 .

In view thereof, the holding of abandonment will not be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[2]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JAN 30 2008

OFFICE OF PETITIONS

In re Application of :
Wayne Knepp et al. :
Application No. 10/917,901 : ON PETITION
Filed: August 13, 2004 :
Attorney Docket No. 14,761,039 :

This is a decision on the petition filed January 8, 2008 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned October 15, 2007 for failure to timely reply to the Notice of Allowability mailed July 12, 2007 requiring the filing of Corrected Drawings and which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed November 6, 2007.

All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to the Publishing Division.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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HELLER EHRMAN LLP
4350 La Jolla Village, 7th Floor
San Diego, CA 92122

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of	:	
John (Chia-Yang) Lin, et al.	:	
Application No. 10/917,905	:	DECISION ON PETITION
Filed: August 13, 2004	:	TO WITHDRAW
Attorney Docket No. 39766-0124A	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 20, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Heller Ehrman LLP has been revoked by the assignee of the patent application on August 28, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Goodwin Procter LLP**
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

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OFFICE OF PETITIONS

In re Application
Lin, et al.
Application No. 10/917,905
Filed: August 13, 2004
Dkt. No.: GNE-0124 US

: PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed February 12, 2009. This matter is being properly treated as a timely filed application for patent term adjustment under 37 CFR 1.705(b).

The Determination of Patent Term Adjustment under 35 USC 154(b) was mailed November 21, 2008. Applicant argues that the application is entitled to an additional adjustment of 11 days pursuant to 35 USC 154(b)(1)(B).

Applicants contest the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are

advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The required application fee of $200.00 fee set forth in 37 CFR 1.18(e) has been charged to petitioner's deposit account, as authorized.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 15 2009

OFFICE OF PETITIONS

In re Patent No. 7,544,659
Issued: June 9, 2009
Application No. 10/917,905
Filed: August 13, 2004
Dkt. No.: GNE-0124 US

: PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed July 14, 2009. Patentee requests correction of the patent term adjustment from 212 days to 223 days. Patentee requests this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent. This matter is being treated under 37 CFR 1.705(d).

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,544,659 on June 9, 2009. The patent issued with a patent term adjustment of 212 days. The application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee argues that in view of Wyeth v. Dudas, Civil Action No. 07-1492, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. Sept. 30, 2008), the patent is entitled to an adjustment of 223 days (319 days pursuant to 35 USC 154(b)(1)(A) *plus* 11 days pursuant to 35 USC 154(b)(1)(B) *less* 107 days of applicant delay).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the request for continued examination (RCE) on August 24, 2007, the application was pending three years and 10 days after its filing date (August 14, 2007 to August 23, 2007). The Office agrees that as of the filing of the RCE, certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 319 days is correct. At issue is whether patentees should accrue 10 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 319 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 10 days of delay in issuing the patent overlaps with the 319 days of examination delay under 37 CFR 1.702(a)(1). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in

---

[1]. Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), August 13, 2004, and ending on August 23, 2007, the day before the date that the RCE was filed on August 24, 2007.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 319 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the RCE. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 10 days of patent term adjustment accrued at the time of submission of the RCE for Office issuance of the patent more than three years after the application filing date.

The 10 days of patent term adjustment under 37 CFR 1.702(b) overlaps with the 319 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 10 days and the 319 days is neither permitted nor warranted given that 319 days is the actual number of days issuance of the patent was delayed at the time of submission of the RCE.

Accordingly, at issuance, the Office properly entered 212 days of patent term adjustment, having considered the 10 days of Office delay under the three-year pendency provision in conjunction with the 319 days of delay under 37 CFR 1.702(a)(1), reduced 107 days for applicant delay.

In view thereof, no adjustment to the patent term will be made.

No additional fee is due in connection with this matter.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Arnold & Porter LLP (24126)
Attn: IP Docketing Dept.
555 Twelfth Street, N.W.
Washington, DC 20004-1206

Mail Date: 04/21/2010

Applicant	: John (Chia-Yang) Lin	: DECISION ON REQUEST FOR
Patent Number	: 7544659	: RECALCULATION of PATENT
Issue Date	: 06/09/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/917,905	: OF WYETH
Filed	: 08/13/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,351,658
Ser. No. : 10/917,906
Inventor(s) : Putkonen
Issued : Apr. 1, 2008
Title : PROCESS FOR PRODUCING YTTRIUM OXIDE THIN FILMS

Docket No. : SEPP10.001C1C1

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. **117** or (703) 308-8309

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Stephen Donovan
Allergan, Inc.
2525 Dupont Drive
Irvine, CA 92612

In re Application of
Weber et al.
Application No. 10/917,909
Filed: August 13, 2004
Attorney Docket No. 17658CIP2 (OCU)
For: Apparatus for Delivery of Ocular...

DECISION ACCORDING
STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed February 10, 2005.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The petition fee of $200 has been charged to petitioner's deposit account.

The Office of Initial Patent Examination will be informed of the instant decision.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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INTERNATIONAL BUSINESS MACHINES CORP
IP LAW
555 BAILEY AVENUE , J46/G4
SAN JOSE, CA 95141

Mail Date: 04/20/2010

Applicant	: Brian Scott Dreher	: DECISION ON REQUEST FOR
Patent Number	: 7594183	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/917,922	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1136** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FERNANDEZ & ASSOCIATES LLP
PO BOX D
MENLO PARK CA 94026-6204

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OFFICE OF PETITIONS

In re Application of	:	
Gunn, et al.	:	DECISION ACCORDING STATUS
Application No. 10/917,927	:	UNDER 37 CFR 1.47(a)
Filed: August 13, 2004	:	
Attorney Docket No. LUX-P037	:	

This is in response to the petition under 37 CFR 1.47, filed October 27, 2004, which is being treated as a petition under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on August 13, 2004, without a fully executed oath or declaration. Accordingly, on October 18, 2004, the Initial Patent Examination Division mailed a Notice to File Missing Parts, requiring an oath or declaration containing the signature of inventor Bing Li, together with a surcharge for its late filing.

In reply, applicants filed the instant petition on October 27, 2004, together with the petition fee and the surcharge for late filing of the declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has attested that a copy of the application papers were sent to inventor Li on August 10, 2004, but that the delivery attempts failed. In support thereof, Rule 47 applicant has included a copy of a FedEx printout.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration previously submitted on August 13, 2004 has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 2633 for docketing and examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Luxtera, Inc.
ATTN: Bob Aris
1819 Aston Avenue
Ste 102
Carsbad CA 92008

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OFFICE OF PETITIONS

In re Application of	:	
Gunn et al.	:	DECISION ON PETITION
Application No. 10/917,927	:	TO WITHDRAW
Filed: August 13, 2004	:	FROM RECORD
Attorney Docket No. LUX-P037	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed February 1, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206.

David Bucci
Petitions Examiner
Office of Petitions

Cc: FERNANDEZ & ASSOCIATES LLP
PO BOX D
MENLO PARK, CA 94026-6402

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Oct-08

PVF -- SYNOPSYS, INC
c/o PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS CA 95618-7759

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OCT 29 2008

OFFICE OF PETITIONS

In re Application of Luk-Pat and Chang Application Number: 10/917942 Filing Date: 08/13/2004 Attorney Docket Number: SNPS-0853	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a) filed on August 13, 2004.

The petition is **GRANTED**.

Petitioners have shown, via the declaration of registered patent practitioner Jonathan T. Kaplan, that a copy of the application was sent to the non-signing inventor, Fang-Cheng Chang, but that no response was received. Additionally, attorney Kaplan states that he made telephone calls to the inventor, but that no response was received.

As such, the showing of record is that the non-signing inventor has constructively refused to join in the filing of the application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application is being referred to the Office of Data Management for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Oct-08

Fang-Cheng Chang
725 Casa Bonita Court
Los Altos CA 94024

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OCT 29 2008

OFFICE OF PETITIONS

In re Application of
Luk-Pat et al.
Application No. 10/917,942
Filed: August 13, 2004
For: METHOD AND APPARATUS FOR DEBLURRING MASK IMAGES

Dear Mr. Chang:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

PVF – SYNOPSYS, INC.
C/O PARK, VAUGHN & FLEMING LLP
2820 FIFTH AVENUE
DAVIS CA 95618-7759

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 07 2004

TECHNOLOGY CENTER 3600

MITCHELL M. MUSIAL II, PLLC
6960 ABBOTT TERRACE
WEST BLOOMFIELD MI 48323

In re application of
John Anthony Chiodo
Application No. 10/917,946
Filed: August 13, 2004
For: MODULAR FISHING LURE

DECISION ON PETITION TO MAKE SPECIAL (PROSPECTIVE MANUFACTURE)

This is a decision on the petition under 37 C.F.R §1.102(d) filed August 13, 2004 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in MPEP 708.02, item I: Prospective Manufacture.

MPEP 708.02 states that a Petition to Make Special based on Prospective Manufacture must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) the possession by the prospective manufacturer of sufficiently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) or that sufficiently available capital and facilities will be made available upon grant of a patent, with the proviso that if the prospective manufacturer is an individual a corroborating statement from a responsible party is required; (B) that the prospective manufacturer will not begin or increase production unless certain that the patent will be granted; (C) that the prospective manufacturer obligates themselves to manufacture the invention in the U.S. in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and (D) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed August 13, 2004 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR: 12/2/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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JAN 18 2008

Technology Center 2100

FISH & RICHARDSON, P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

NOTICE OF WITHDRAWAL

FROM ISSUE
UNDER 37 CFR 1.313(b)

In re Application of
Yuh-Cherng Wu
Application No.: 10/917,957
Filed: August 12, 2004
Attorney Docket No.: 13906-241001/2004P00703
For: VIRTUAL COMMUNITY GENERATION

The application is being withdrawn to permit reopening of prosecution, because the application contains at least one claim that is unpatentable. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to David Vincent 571-272-3080.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Wendy Garber
Director, Technology Center 2100
Computer Architecture, Software
And Electronic Commerce

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 22 2009

OFFICE OF PETITIONS

EVERETT D. ROBINSON
ECHELON IP, LLC
P.O. BOX 1047
AMERICAN FORK, UT 84003-1047

In re Application of	:	
Russell S. Thornton et al	:	
Application No. 10/917,958	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 5166.10 P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 10, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 11, 2008.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2134 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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EVERETT D. ROBINSON
ECHELON IP, LLC
P.O. BOX 1047
AMERICAN FORK, UT 84003-1047

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JUN 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Russell S. Thornton et al	:	
Application No. 10/917,960	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 5166.17 P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 17, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 18, 2008.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2432 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EVERETT D. ROBINSON
ECHELON IP, LLC
P.O. BOX 1047
AMERICAN FORK, UT 84003-1047

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OFFICE OF PETITIONS

In re Application of	:	
Russell S. Thornton et al	:	
Application No. 10/917,961	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 5166.15 P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 15, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 16, 2008.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2434 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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P. O. Box 1450
Alexandria, VA 22313-1450
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EVERETT D. ROBINSON
ECHELON IP, LLC
P.O. BOX 1047
AMERICAN FORK, UT 84003-1047

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OFFICE OF PETITIONS

In re Application of :
Russell S. Thornton et al :
Application No. 10/917,962 : ON PETITION
Filed: August 13, 2004 :
Attorney Docket No. 5166.13 P :

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 8, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 9, 2008.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2434 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Russell S. Thornton et al :
Application No. 10/917,963 :
Filed: August 13, 2004 :
Attorney Docket No. 5166.14 P :

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 15, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 16, 2008.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2434 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Parsons Behle & Latimer
Suite 1800
201 South Main Street
P.O. Box 45898
Salt Lake City, UT 84111

In re Application of	:	
Russell S. Thornton et al.	:	
Application No. 10/917,964	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 5166.18 P	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed September 26, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 27, 2007. A Notice of Abandonment was mailed on April 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2139 for appropriate action by the Examiner in the normal course of business on the reply received March 26, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Everett D. Robinson
P.O. Box 1047
American Fork, UT 84003

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OFFICE OF PETITIONS

In re Application of	:	
Russell S. THORNTON et al.	:	
Application No. 10/917,965	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 5166.12 P	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 10, 2007 which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 11, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee of $810.00 and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of December 10, 2007 has been accepted as having been unintentionally delayed.

The change of address filed by the attorney of record with the petition on May 12, 2009 has been accepted and made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application is being referred to the Technology Center AU 2134 for appropriate action on the concurrently filed election.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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TECHNOLOGY CENTER 3600

BANNER & WITCOFF, LTD.
28 State Street
28th Floor
Boston, MA 02109-9601

In re application of	:	**DECISION ON PETITION**
Jack T. Mowery et al.	:	**TO MAKE SPECIAL**
Application No. 10/917,973	:	**(INFRINGEMENT)**
Filed: August 13, 2004	:	
For: SIDING PANEL WITH INSULATED BACKING PANEL		

This is a decision on the petition under 37 C.F.R § 1.102(d) filed March 09, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed March 09, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on March 09, 2005.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/pav: 03/24/05

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JAN 28 2005

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TECHNOLOGY CENTER 2600

Ronald D. Slusky
Suite 5L
353 West 56th Street
New York NY 10019-3775

In re Application of:
Mei HAN, et al.
Application No. 10/917,985
Filed: August 12, 2004
For: **VIDEO SURVEILLANCE SYSTEM WITH RULE-BASED REASONING AND MULTIPLE-HYPOTHESIS SCORING**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed December 8, 2004.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The statements made in the petition show how the technology of the instant application directly contributes to the countering of terrorism.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the examiner for expedited action in its turn.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re Application of :
OZAKI et al. :
Application No. 10/917,989 : ON APPLICATION FOR
Filed: August 13, 2004 : PATENT TERM ADJUSTMENT
Attorney Docket No. 81208/7114:

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT filed April 17, 2009. Applicant requests that the determination of patent term adjustment be corrected from five hundred seventy-eight (578) days to nine hundred fifty-four (954) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed.) The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on January 24, 2008.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent.

The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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OFFICE OF PETITIONS

In re Patent No. 7,551,229	:	DECISION ON REQUEST FOR
OZAKI et al.	:	RECONSIDERATION OF
Issue Date: June 23, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/917,989	:	NOTICE OF INTENT TO ISSUE
Filed: August 13, 2004	:	CERTIFICATE OF CORRECTION
Attorney Docket No. 81208/7114	:	

This is a decision on the petition filed on August 1, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred fifty-four (954) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **seven hundred forty-one (741) days**.

Patentees aver that they are entitled to a period of adjustment of 213 days pursuant to 37 CFR 1.702(e) for delay in issuing the patent caused by successful appellate review.[1]

The Office has considered patentees' argument but finds it without merit.

[1] Patentees originally raised this basis for adjustment in the Application for Patent Term Adjustment under 37 CFR 1.705(d) filed April 17, 2009. Unfortunately, it was not addressed in the decision of May 19, 2009.

Pursuant to 37 CFR 1.703(e):

> The period of adjustment under § 1.702(e) is the sum of the number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

In this instance, applicants filed a notice of appeal and a Pre-Appeal Brief Request For Review on June 25, 2008. On September 11, 2008, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review, indicating that a Pre-Appeal Brief conference had been held and that the application remained under appeal because there was at least one actual issue on appeal. On October 14, 2008, applicants filed an appeal brief.

The Office notes the neither the Board of Patent Appeals and Interferences nor a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 rendered a final decision in favor of the applicants. Rather, the Office issued a Notice of Allowance on January 23, 2009, within four months of the filing of the appeal brief. Furthermore, it is noted that "a decision by a pre-appeal brief conference panel to withdraw the rejections of any or all of the claims on appeal is not a decision by a panel of the Board of Patent Appeals and Interferences, and, as such, would not result in any patent term extension of adjustment under 35 U.S.C. Sec. 154(b) (37 CFR 1.701(a)(3) and 1.702(e))." *Pre-Appeal Brief Conference Pilot Program, 1296 OG 67 (July 12, 2005)*. Accordingly, a period of adjustment of 213 days is not warranted and will not be entered.

In view of the above, the patent term adjustment is 741 days (581 days of A delay + 163 days of B delay - 3 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred forty-one (741) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,551,229 B2

DATED: Jun. 23, 2009 **DRAFT**

INVENTOR(S): OZAKI et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 578 days

Delete the phrase "by 578 days" and insert – by 741 days--

Day : Wednesday

PALM INTRANET

Date: 5/5/2010
Time: 13:45:54

PTA Calculations for Application: 10/917989			
Application Filing Date:	08/13/2004	PTO Delay (PTO):	581
Issue Date of Patent:	06/23/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	3
Post-Issue Petitions:	0	Total PTA (days):	741
PTO Delay Adjustment:	163		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
70	05/05/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	163		
66.5	06/03/2009	PTA 36 MONTHS			
66	06/23/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
65	05/27/2009	EXPORT TO FINAL DATA CAPTURE			
64	05/26/2009	DISPATCH TO FDC			
63	05/19/2009	MAIL-PETITION DECISION - DISMISSED			
62	05/19/2009	PETITION DECISION - DISMISSED			
61	04/17/2009	PETITION ENTERED			
60	04/24/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
59	04/23/2009	ISSUE FEE PAYMENT VERIFIED			
58	04/23/2009	ISSUE FEE PAYMENT RECEIVED			
57	03/06/2009	FINISHED INITIAL DATA CAPTURE			
56	01/26/2009	EXPORT TO INITIAL DATA CAPTURE			
54	01/23/2009	MAIL NOTICE OF ALLOWANCE			
53	01/21/2009	ISSUE REVISION COMPLETED			
52	01/21/2009	DOCUMENT VERIFICATION			
51	01/21/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	01/21/2009	EXAMINER'S AMENDMENT COMMUNICATION			
49	01/21/2009	NOTICE OF ALLOWABILITY			
45	10/28/2008	APPEAL BRIEF REVIEW COMPLETE			
44	10/28/2008	DATE FORWARDED TO EXAMINER			
43	10/14/2008	APPEAL BRIEF FILED			
42	09/11/2008	MAIL APPEALS CONF. PROCEED TO BPAI			
		PRE-APPEALS CONFERENCE DECISION -			

41	09/10/2008	PROCEED TO BPAI			
40	06/25/2008	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
39	06/25/2008	NOTICE OF APPEAL FILED			
38	03/25/2008	MAIL NON-FINAL REJECTION			
37	03/23/2008	NON-FINAL REJECTION			
36	01/28/2008	DATE FORWARDED TO EXAMINER			
35	01/24/2008	RCE- AF PROCESSED			
34	01/28/2008	DATE FORWARDED TO EXAMINER			
33	01/24/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
32	01/28/2008	DISPOSAL FOR A RCE / CPA / R129			
31	01/24/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
30	01/17/2008	DATE FORWARDED TO EXAMINER			
29	01/02/2008	AMENDMENT AFTER FINAL REJECTION			
28	11/01/2007	MAIL FINAL REJECTION (PTOL - 326)			
27	10/29/2007	FINAL REJECTION			
26	08/22/2007	DATE FORWARDED TO EXAMINER			
25	08/20/2007	RESPONSE AFTER NON-FINAL ACTION		3	23
24	08/20/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	05/17/2007	MAIL NON-FINAL REJECTION	581		-1
22	05/14/2007	NON-FINAL REJECTION			
21	06/17/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	06/20/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	07/31/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	04/06/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17.7	04/06/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
17	04/06/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	01/19/2007	CASE DOCKETED TO EXAMINER IN GAU			
15.7	07/31/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
15	07/31/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

14	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	02/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
12.7	06/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	06/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11.7	06/17/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
11	06/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	03/31/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	03/31/2005	CASE DOCKETED TO EXAMINER IN GAU			
8	10/16/2004	APPLICATION RETURN FROM OIPE			
7	10/16/2004	APPLICATION RETURN TO OIPE			
6	10/16/2004	APPLICATION DISPATCHED FROM OIPE			
5	10/18/2004	APPLICATION IS NOW COMPLETE			
4	09/24/2004	CLEARED BY OIPE CSR			
3	09/24/2004	CASE CLASSIFIED BY OIPE			
2	09/07/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/13/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No.

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SEATTLE WA 98111-1247

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Dadhia et al.	:	
Application No. 10/918,040	:	ON APPLICATION FOR
Filed: August 13, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 418268018US1	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B) filed January 23, 2009. Applicants request that the patent term adjustment be increased by 469 days from seven hundred ninety-five (795) days to one thousand two hundred sixty-four (1264) days.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met.

Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The revised patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: Richard M. Biaud	: DECISION ON REQUEST FOR
Patent Number	: 7614692	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/918,066	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **489** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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St. Onge Steward Johnston & Reens LLC
986 Bedford Street
Stamford, CT 06905-5619

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MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of
Roballey et al.
Application No. 10/918,110
Filed: August 13, 2004
Attorney Docket No. 1330.004.1

Decision on Petition

This is a decision on the petition filed November 17, 2004, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that page 16 of the specification was part of the originally filed application.

The application was filed on August 13, 2004. On November 5, 2004, a Notice was mailed stating that page 16 of the specification did not appear to be included as part of the application filed.

The present petition alleges that page 16 was deposited on August 13, 2004. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 27 pages of specification including claims on August 13, 2004.[1]

The USPTO file for this application includes 26 pages of specification and claims and does not include page 16 of the specification. Based on the evidence submitted, the Office concludes the missing page was part of the application but was later misplaced. Therefore, the petition is **granted**.

The petition fee will be credited back to deposit account no. 50-2557.

The Notice mailed November 5, 2004, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 13, 2004, using the application papers filed on August 13, 2004, and the copy of page 16 of the specification filed on November 17, 2004.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

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SECOND SIGHT, LLC
12744 SAN FERNANDO ROAD
BUILDING #3
SYLMAR, CA 91342

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AUG 0 3 2005
OFFICE OF PETITIONS

In re Application of :
Greenberg, et al. :
Application No. 10/918,112 :
Filed: August 13, 2004 :
Attorney Docket No. S300-USA :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed October 13, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 14, 2004. A Notice of Abandonment was mailed on July 7, 2005.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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United States Patent and Trademark Office
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SECOND SIGHT MEDICAL PRODUCTS, INC.
12744 SAN FERNANDO ROAD
BUILDING 3
SYLMAR, CA 91342

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FEB 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Greenberg, et al.	:	
Application No. 10/918,112	:	DECISION ON PETITION
Filed: August 13, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. S300-USA	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is GRANTED.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on August 13, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/574,130, which was filed on May 25, 2004, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. See 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/574,130 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

The application is being forwarded to Technology Center AU 3738 for appropriate action on the amendment submitted January 3, 2006, *in due course*, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/574,130.

Any inquiries concerning this decision may be directed to the Petitions Attorney Edward Tannouse at (571) 272-3228. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/918,112	08/13/2004	3738	558	S300-USA	7	32	3

CONFIRMATION NO. 4128

CORRECTED FILING RECEIPT

OC000000017997322

28284
SECOND SIGHT MEDICAL PRODUCTS, INC.
12744 SAN FERNANDO ROAD
BUILDING 3
SYLMAR, CA 91342

Date Mailed: 02/07/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Robert Greenberg, Los Angeles, CA;
Neil Talbot, Montrose, CA;
Brian V. Mech, Stevenson Ranch, CA;
James Little, Saugus, CA;

Power of Attorney:

Scott Dunbar--37124

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/574,130 05/25/2004

Foreign Applications

If Required, Foreign Filing License Granted: 10/12/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/918,112

Projected Publication Date: 02/16/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Retinal prosthesis

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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McNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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APR 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Howard Martin Dixon et al	:	
Application No. 10/918,126	:	DECISION ON PETITION
Filed: August 13, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 45009-2	:	

This is a decision on the petition treated under 37 CFR 1.78(a)(3), filed February 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/GB03/00573, filed February 7, 2003, as set forth in the concurrently filed Supplemental Application Data Sheet.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to

the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 3765 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/918,126	08/13/2004	3765	707	45009-2	8	39	5

CONFIRMATION NO. 4248

CORRECTED FILING RECEIPT

OC000000018505368

30565
WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

Date Mailed: 04/11/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Howard Martin Dixon, Lancashire, UNITED KINGDOM;
Paul Rodgers, Lancashire, UNITED KINGDOM;

Power of Attorney: The patent practitioners associated with Customer Number **30565**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/GB03/00573 02/07/2003

Foreign Applications

UNITED KINGDOM 0203495.7 02/14/2002
UNITED KINGDOM 0221967.3 09/21/2002

If Required, Foreign Filing License Granted: 10/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/918,126

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Automatic tufting method and apparatus therefor

Preliminary Class

112

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE: G. Welch

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/25/07

TO SPE OF : ART UNIT 3765

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/918,126 Patent No.: 7191716

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

[signature] 3765

SPE **Art Unit**

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WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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OFFICE OF PETITIONS

In re Patent No. 7,191,716	:	
Issue Date: March 20, 2007	:	
Application No. 10/918,126	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 45009-2	:	

This is a decision on the petition filed June 22, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PETER K. TRZYNA, ESQ.
P O BOX 7131
CHICAGO IL 60680

MAILED
MAR 25 2010
OFFICE OF PETITIONS

In re Application of	:	
Alan Matthew	:	
Application No. 10/918,127	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. Mathew-P1-04	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 12, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 13, 2009. The Notice of Abandonment was mailed December 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 3691 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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PVF -- SUN MICROSYSTEMS INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: Dean R. E. Long	: DECISION ON REQUEST FOR
Patent Number	: 7647586	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/918,131	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **654** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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EXXONMOBIL RESEARCH & ENGINEERING COMPANY
P.O. BOX 900
1545 ROUTE 22 EAST
ANNANDALE, NJ 08801-0900

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JUL 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Varadaraj et al.	:	
Application No. 10/918,137	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. RV-0414	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and Terminal Disclaimer, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 1797 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WOODCOCK WASHBURN, LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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OCT 09 2007

OFFICE OF PETITIONS

In re Application of	:
Application No. 10/918,142	:
Filed: August 13, 2004	: DECISION ON PETITION
Attorney Docket No. FCI-2759 (C3630)	: UNDER 37 CFR 1.78(a)(3)
	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 1, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled

to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2833 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/918,142	08/13/2004	2833	1620	FCI-2759 (C3630)	16	3

CONFIRMATION NO. 3696

CORRECTED FILING RECEIPT

OC000000026196292

48580
WOODCOCK WASHBURN, LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Date Mailed: 10/05/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Joseph B. Shuey, Camp Hill, PA;
Stephen B. Smith, Mechanicsburg, PA;

Assignment For Published Patent Application

FCI Americas Technology, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **23377**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/294,966 11/14/2002 PAT 6,976,886
which is a CIP of 09/990,794 11/14/2001 PAT 6,692,272
and is a CIP of 10/155,786 05/24/2002 PAT 6,652,318

Foreign Applications

If Required, Foreign Filing License Granted: 10/07/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/918,142

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

HIGH SPEED DIFFERENTIAL TRANSMISSION STRUCTURES WITHOUT GROUNDS

Preliminary Class

439

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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DUANE MORRIS LLP
PO BOX 5203
PRINCETON NJ 08543-5203

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey B. Boka	:	
Application No. 10/918,147	:	DECISION GRANTING PETITION
Filed: August 13, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. GE-07200	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowability mailed March 23, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent and for review of the drawings received October 3, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAIL

APR 16 2010
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Sunstein Kann Murphy & Timbers LLP
125 SUMMER STREET
BOSTON MA 02110-1618

In re Application of
LETTVIN, JONATHAN D., et al.
Application No. 10/918,151
Filed: August 13, 2004
For: **IMAGING SYSTEM**

DECISION ON PETITION FOR SUSPENSION

This is a decision on applicant's petition for suspension filed January 19, 2010.

MPEP § 1.103 Suspension of action by the Office, states in part:

(a) *Suspension for cause.* On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

A review of the request reveals that while Applicants provided the necessary fee and requested a suspension for 6 months, they failed to provide any showing that would constitute "good and sufficient cause" for suspension of the instant application. A mere allegation of financial hardship is not a **showing** of good and sufficient cause and therefore it is not sufficient under 37 CFR 1.103(a).

Therefore, Applicants' request for a suspension under 37 C.F.R. §1.103 is **DISMISSED**. Should applicant desire reconsideration of this decision, he/she should supplement this petition with a showing of good and sufficient cause for the instant application to be suspended. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

The application file will be forwarded to the examiner of record to await action in due course.

John Lebovitz for

Wanda L. Walker
Director,
Technology Center 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

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TAFT, STETTINIUS & HOLLISTER, LLP
SUITE 1800
425 WALNUT STREET
CINCINNATI, OH 45202-3957

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MAR 06 2008

OFFICE OF PETITIONS

In re Application of	:	
John J. Rego et al.	:	
Application No. 10/918,159	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. RER02-GN002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed, December 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 13, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 10, 2007. Accordingly, the date of abandonment of this application is November 11, 2007. A Notice of Abandonment was mailed on December 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 and the publication fee of $300, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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COHEN, PONTANI, LIEBERMAN & PAVANE LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

Mail Date: 04/21/2010

Applicant	: Shuji Ichitani	: DECISION ON REQUEST FOR
Patent Number	: 7633646	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/918,185	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1460** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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HOWREY SIMON ARNOLD & WHITE, LLP
C/O M.P. DROSOS, DIRECTOR OF IP
2941 FAIRVIEW PK
BOX 7
FALLS CHURCH, VA 22042

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of:	:	
Deppmeier et al.	:	
Application No. 10/918,187	:	DECISION GRANTING
Filed: August 13, 2004	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47(a)
ENDOSCOPE AND RELATED SYSTEMS	:	

This decision is in response to the Petition Under 37 CFR 1.47(a), filed December 16, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Josiah E. Verkaik, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

Paper No.: _____

DATE : 6/4/09

TO SPE OF : ART UNIT 2887

SUBJECT : Request for Certificate of Correction for Appl. No.: 10918193 Patent No.: 7490770 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction.
Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE

NEWSOME

Certificates of Correction

Branch

703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X	**Approved**	**All** changes apply.
☐	**Approved in Part** **do not** apply.	Specify below which changes
☐	**Denied**	State the reasons for denial below.

Comments: The Request for Certificate of Correction filed May 22, 2009 has been reviewed and approved.

/Steven S. Paik/	2887
SPE	Art Unit

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Daniel H. Golub
1701 Market Street
Philadelphia PA 19103

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OCT 12 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Small, et al. :
Application No. 10/918,202 :
Filed: August 13, 2004 :
Attorney Docket No. 049623-5029 :
For: DISTRIBUTED OBJECT-BASED STORAGE SYSTEM THAT USES POINTERS STORED AS OBJECT ATTRIBUTES FOR OBJECT ANALYSIS AND MONITORING

This is a decision on the petition under 37 CFR 1.137(b), filed July 16, 2007, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the non-final Office action, mailed January 11, 2007, which set an extendable three month period for reply. No extensions of time being obtained and no reply being filed, the application became abandoned on April 12, 2007. The filing of the present petition precedes the mailing of A Notice of Abandonment.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed.;

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (2) above.

The current small entity fee for filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) is set forth in 37 CFR 1.17(m) as $770.00. A review of Office records indicates that petitioners have not paid this fee.

The payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(b). This requirement cannot be waived. MPEP 711.03(c)(III)(B). Therefore, consideration of the merits of the petition before receipt of the petition fee is prohibited.

Petitioners should submit the petition fee promptly. If using a deposit account to pay the fee, please ensure that an authorized user signs appropriate documents.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 – ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

After the mailing of this decision, the application will be returned to Files Repository.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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www.uspto.gov

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OCT 22 2008

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of
Small, et al.
Application No. 10/918,202
Filed: August 13, 2004
Attorney Docket No. 049623-5029
For: DISTRIBUTED OBJECT-BASED STORAGE SYSTEM THAT USES POINTERS STORED AS OBJECT ATTRIBUTES FOR OBJECT ANALYSIS AND MONITORING

ON PETITION

This correspondence is mailed in response to the request for confirmation and correction of decision on a renewed petition under 37 CFR 1.137(b), filed August 21, 2008.

The petition is **granted**.

This application became abandoned for failure to timely reply to the non-final Office action, mailed January 11, 2007, which set an extendable three month period for reply. No extensions of time being obtained and no reply being filed, the application became abandoned on April 12, 2007. The filing of the present petition precedes the mailing of A Notice of Abandonment.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by the August 5, 2008 decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/825,921.

The statement of delay in the April 11, 2008 petition is acceptable, because it was made by a registered practitioner practicing with Morgan Lewis and Bockius LLP at the Washington, D.C. Office. It is noted that at the time of abandonment there was only one practitioner of record – Daniel H. Golub – and he was practicing out of the Philadelphia, PA Office of Morgan Lewis and Bockius LLP.

After the mailing of this decision, the application will be returned to Files Repository.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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STREETS & STEELE
13831 NORTHWEST FREEWAY
SUITE 355
HOUSTON TX 77040

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Panchalingam et al.	:	
Application No. 10/918213	:	
Filing or 371(c) Date: 08/13/2004	:	ON PETITION
Attorney Docket Number: CHAM/0004.C	:	

This is a decision on the petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), filed November 8, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 20, 2007. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on June 21, 2007. A Notice of Abandonment was mailed October 24, 2007.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The application is being referred to Technology Center Art Unit 1796 for processing of the Amendment/reply filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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13831 NORTHWEST FREEWAY
SUITE 355
HOUSTON TX 77040

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DEC 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Panchalingham et al.	:	
Application No.: 10/918214	:	ON PETITION
Filing or 371(c) Date: 08/13/2004	:	
Attorney Docket Number:	:	
CHAM/0004.B	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed October 7, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed March 20, 2007. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on June 21, 2007. A Notice of Abandonment was mailed October 25, 2007.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 1796 for processing of the Amendment filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

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OCT 0 9 2008

OFFICE OF PETITIONS

In re Application of
Santori, et al.
Application No. 10/918,215
Filed: August 13, 2004
Attorney Docket No. 5150-78401
For: CREATING A GRAPHICAL USER INTERFACE FOR SELECTED PARAMETERS OF A GRAPHICAL PROGRAM

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed August 14, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to properly reply to the final Office action, mailed January 16, 2008, which set a three (3) month statutory period for reply. An amendment after final was filed on April 10, 2008. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the July 17, 2008 Advisory action. Accordingly, this application became abandoned on April 17, 2008. A Notice of Abandonment was mailed on July 31, 2008.

Petitioners request withdrawal of the holding of abandonment because petitioners believed the January 16, 2008 Office action was a non-final Office action; and, therefore, they contend their April 10, 2008 amendment should be a sufficient response to avoid abandonment.

The first page of the January 16, 2008 Office Action Summary states that the Office action is mailed in response to a communication filed November 14, 2007 and the action is non-final. However, page 10 of the Office action, ***Conclusion***, states, in pertinent part, " 5. Applicant's

amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL....**"

In January 2008, after noting the inconsistency in the January 16, 2008 Office action, Agent Mark S. Williams and Sonie Nasabee, Docketing Paralegal, allegedly contacted the examiner of record, who, according to Mr. Williams and Ms. Nasabee, informed them that the January 16, 2008 Office action was non-final. However, the January 16, 2008 Office action is a final action in the official record.

Applicants are reminded that official communication with the Office must be carried out in writing. 37 CFR 1.2. Oral advice from Office employees is not binding. See In re Sivertz, 227 USPQ 255,256 (Comm'r Pat. 1985). An Office employee's alleged statements made during telephone conversations cannot nullify the finality of the January 16, 2008 Office action.

Petitioners are reminded that after a final action, there are only five possible proper replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) a RCE. To be a proper reply, an amendment after final must eliminate all of the examiner's rejections, and thus place the case in *prima facie* condition for allowance.

Petitioners' amendment after final, filed April 10, 2008, failed to eliminate all of the examiner's rejections, as was stated in the Advisory Opinion of July 17, 2008.

The post-final rejection of amendments does not obligate the Office or examiner to provide an applicant with a new time period or time limit in which to provide a complete response under 37 CFR 1.113.

The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last Office action, or refusal to admit the same, shall not operate to save the application from abandonment. "[T]he admission of, or refusal to admit, any amendment after final rejection, and any proceedings relative thereto, shall not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135." See 37 CFR 1.116(a).

The period for response under 37 CFR 1.113 continued to run after the amendment after final was filed and the application did become abandoned on April 17, 2008.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is DISMISSED. No petition fee has been or will be charged in connection with this petition.

Given the facts and circumstances of this case, petitioners are encouraged to file a petition to revive under the unavoidable standard of 37 CFR 1.137(a).

Further correspondence with respect to this matter should be addressed as follows:

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 398
AUSTIN TX 78767-0398

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In re Application of
Santori, et al.
Application No. 10/918,215
Filed: August 13, 2004
Attorney Docket No. 5150-78401
For: CREATING A GRAPHICAL USER INTERFACE FOR SELECTED PARAMETERS OF A GRAPHICAL PROGRAM

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 5, 2008, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to properly reply to the final Office action, mailed January 16, 2008, which set a three (3) month statutory period for reply. An amendment after final was filed on April 10, 2008. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the July 17, 2008 Advisory action. Accordingly, this application became abandoned on April 17, 2008. A Notice of Abandonment was mailed on July 31, 2008.

Applicants have submitted a RCE and required fee and amendment in reply to the January 16, 2008 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the January 16, 2008 final Office action, and the petition fee. Therefore, the petition is **GRANTED**.

The statement of unintentional delay presented in the petition does not comply with the current rule. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioners are required to provide a statement to that effect.

Regarding the request for refund of the petition fee: The payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(b). This requirement cannot be waived, as it is a statutory requirement. MPEP 711.03(c)(III)(B).

After the mailing of this decision the application will be forwarded to Technology Center AU 2179 for consideration of the RCE and amendment filed on November 5, 2008.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614

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DEC 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Rensheng Zhang	:	
Application No. 10/918,248	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. UF-388XC1	:	

This is a decision on the petition, filed August 12, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to submit a proper reply under 37 CFR 1.113(a) to the Office action of November 13, 2008. On July 22, 2009, the Office mailed a Notice of Abandonment.

Petitioner requests that the abandonment be withdrawn since a proper response was timely filed. Petitioner asserts that a proper reply was submitted due to the fact that the Office Action Summary mailed on November 13, 2008 indicated that the action was Non Final and therefore the reply submitted on May 13, 2009 should constitute as being proper.

A review of the file record does indicate that the Office action of November 13, 2008 was in fact Non Final. Accordingly, the response filed on May 13, 2009, will be accepted as a proper reply.

In view of the above, the holding of abandonment is hereby withdrawn and the application is restored to pending status.

This application is being referred to Technology Center AU 1612 for appropriate action in the normal course of business on the amendment submitted May 13, 2009.

Chris Bottorff
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Barnes & Thornburg LLP
P.O. Box 2786
Chicago, IL 60690-2786

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AUG 18 2008

In re Application of	:	
Paul J. Thomas, et al.	:	
Application No. 10/918,252	:	DECISION ON PETITION
Filed: August 13, 2004	:	TO WITHDRAW
Attorney Docket No. 926512-101016	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 18, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c).. The reasons set forth in the request, ***file responsibility was transferred to the attorneys/agents associated with Customer Number 24628***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Husch Blackwell Sanders, LLP**
Welsh & Katz
120 S Riverside Plaza
22nd Floor
Chicago, IL 60606

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Barnes & Thornburg LLP
P.O. Box 2786
Chicago, IL 60690-2786

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NOV 2 6 2008

In re Application of	:	
Paul J. Thomas, et al.	:	
Application No. 10/918,252	:	DECISION ON PETITION
Filed: August 13, 2004	:	TO WITHDRAW
Attorney Docket No. 926512-101016	:	FROM RECORD
	:	

This is a decision on the renewed petition to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 18, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas Donovan on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Paul J. Thomas**
617 Georgia Avenue
Sheboygan, WI 53081

cc: **Husch Blackwell Sanders, LLP**
Welsch & Katz
120 S Riverside Plaza
22nd Floor
Chicago, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/918,252	08/13/2004	Paul J. Thomas	926512-101016

CONFIRMATION NO. 4208

POWER OF ATTORNEY NOTICE

23644
BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

OC000000033249431

Date Mailed: 11/21/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/18/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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22ND FLOOR
CHICAGO, IL 60606

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SEP 22 2006

OFFICE OF PETITIONS

In re Application of	:	
Kanzler, et al.	:	
Application No. 10/918,263	:	DECISION ON PETITION
Filed: August 13, 2004	:	TO WITHDRAW
Attorney Docket No. 9423-92367	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas R. Vigil on behalf of all attorneys of record who are associated with customer No. 24628.

All attorneys/agents associated with the Customer Number 24628 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed May 23, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: James Kanzler
30846 N. U.S. Highway 12
Volo, IL 60073-8155

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/918,263	08/13/2004	James Kanzler	9423-92367

CONFIRMATION NO. 4217

OC000000020513929

OC000000020513929

24628
WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

Date Mailed: 09/20/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/15/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

Mail Date: 04/21/2010

Applicant	: Foyeke Opawale	: DECISION ON REQUEST FOR
Patent Number	: 7635675	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/918,264	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1312** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DEC 10 2004

In re Application of	:	
D. Kesinger	:	
Serial No. 10/918,270	:	DECISION ON PETITION
Filed: August 14, 2004	:	TO MAKE SPECIAL
For: QUICK ACTION TAP WRENCH	:	

Applicant's petition, filed August 14, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Thomas W. Hanson
3555 S. Sherman Street, Suite 1
Englewood, CO 80110

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Steptoe & Johnson LLP
2121 Avenue of the Stars,
Suite 2800
Los Angeles CA 90067

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JUN 17 2010

OFFICE OF PETITIONS

In re Application of	:	
JOB, KEITH	:	
Application No. 10/918,277	:	ON APPLICATION FOR
Filed: 08/13/2004	:	PATENT TERM ADJUSTMENT
Atty. Docket No. 83580.0346	:	

This is in response to the "APPLICATIONS FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) WITHIN THREE MONTHS OF RECEIPT OF THE NOTICE OF ALLOWANCE" filed February 18, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least one thousand seven hundred fifty-five (1755) days, not nine hundred seven (907) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office will charge the Deposit Account the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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BARNES & THORNBURG LLP
JAMES B. CONTE
P.O. BOX 2786
CHICAGO, IL 60690-2786

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OFFICE OF PETITIONS

In re Application of

BERGNER, Jeffrey W. et al.
Application No. 10/918,278
Filed: August 13, 2004
Attorney Docket No. **900093.00041**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 18, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, (file responsibility was transferred to attorneys/agents associated with customer number 24658), does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **WELSH & KATZ, LTD**
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 04/20/2010

Applicant	: Marcelo de Albuquerque Lima Goncalves	: DECISION ON REQUEST FOR
Patent Number	: 7594543	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/918,282	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/14/2004	: ISSUE CERTIFICATE OF CORRECTION

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **965** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 05/10/2010

Applicant	: Alan O'Neill	: DECISION ON REQUEST FOR
Patent Number	: 7616746	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/918,283	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1402** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : ~~10/29/08~~ 12/17/08

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/918284 Patent No.: 7282593 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

1625
Art Unit

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INTELLECTUAL PROPERTY DEPT.
3760 ROCKY MOUNTAIN AVE
LOVELAND CO 80538

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OFFICE OF PETITIONS

In re Application of	:	
Yang, Shumin	:	
Application No. 10/918,292	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. IM-2-C2-R	:	

This is a decision on the petition, filed October 3, 2005, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed October 18, 2004, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on September 12, 2005..

Petitioner asserts that the Office action dated October 18, 2004 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This matter is being referred to the Office of Initial Patent Examination technical support staff for re-mailing the Office action of October 18, 2004. The period for reply will run from the mailing date of the Office action.

Liana Walsh
Petitions Examiner
Office of Petitions

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222 N. LASALLE STREET
CHICAGO, IL 60601

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OFFICE OF PETITIONS

In re Application of Nicodem et al. :
Application No. 10/918,307 :
Filing Date: March 13, 2004 :
Attorney Docket No. 37335.00.0007 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2006, to revive the above-identified application. This is also a decision in response to the petition under 37 CFR 1.182 to expedite consideration of the petition under 37 CFR 1.137(b).

The petition under 37 CFR 1.137(b) is **granted**.

The petition under 37 CFR 1.182 is **granted**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed December 21, 2005, which set a shortened statutory period for reply of three (3) months. The above-identified application became abandoned on March 22, 2006. A Notice of Abandonment was mailed on May 11, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Patent Publications will be informed of the instant decision and will issue the application as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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SILICON VALLEY PATENT GROUP LLP
2350 MISSION COLLEGE BOULEVARD
SUITE 360
SANTA CLARA CA 95054

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OFFICE OF PETITIONS

In re Application of	:	
Richard K. Williams et al.	:	
Application No. 10/918,316	:	DECISION GRANTING PETITION
Filed: August 14, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. AAT011-1D US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 9, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 21, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DAFFER MCDANEIL LLP
P.O. BOX 684908
AUSTIN TX 78768

In re Application of: POISEL, HANS, et al.)
Application No. 10/918,321)
Filed: August 13, 2004)
For: **OPTICAL ROTATING DATA TRANSMISSION DEVICE HAVING AN UNOBSTRUCTED INNER DIAMETER**)

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) AND MPEP § 708.02 (I): MANUFACTURE

This is a decision on the petition, filed January 20, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(I): Manufacture, to make the above-identified application special.

In compliance with M.P.E.P. § 708.02(I), the petition must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(I)(2) and a statement by the applicant, assignee or attorney/agent registered to practice before the Office alleging:

(A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted.

If the prospective manufacturer is an individual, there must be a corroborating affidavit from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;

(B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;

(C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition meets the requirements set out above. Accordingly, the petition is **GRANTED.**

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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ECHELON IP, LLC
P.O. BOX 1047
AMERICAN FORK, UT 84003-1047

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OFFICE OF PETITIONS

In re Application of	:	
Russell S. THORNTON et al.	:	
Application No. 10/918,325	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 5166.4 P	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 17, 2008 which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 18, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee of $810.00 and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of March 17, 2008 has been accepted as having been unintentionally delayed.

The change of address filed by the attorney of record with the petition on May 12, 2009 has been accepted and made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application is being referred to the Technology Center AU 2439 for appropriate action on the concurrently filed election.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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KNOBBE MARTENS OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

In re Application of	:
David A. Williams et al	:
Serial No.: 10/918,328	: PETITION DECISION
Filed: August 12, 2004	:
Attorney Docket No.: CHMC20.001A	:

This is in response to the petition under 37 CFR 1.181, filed March 12, 2007, requesting withdrawal of the Finality of the Office action mailed January 12, 2007.

BACKGROUND

A review of the file history shows that the examiner mailed a first Office action to applicants on November 16, 2005, setting forth a four-way restriction requirement and an election of species requirement of claims 1-59.

Applicants replied on April 20, 2006, by electing Group I (claims 1-11 and 43-59) and a species with traverse.

The examiner mailed a new Office action to applicants on July 10, 2006, acknowledging the election without traverse and the species elected and set forth the species elected for each claim. The examiner responded to the traverse, but maintained the requirement, however further indicated that rejoinder upon allowance of a claim or claim set may be possible and made the requirement Final. The requirement has not been the subject of petition. Claims 4-5 and 10 were objected to as containing non-elected subject matter. Claim 7 was rejected under 35 U.S.C. 112, second paragraph, as indefinite with regard to the term "mobility" and claim 43 as lacking antecedent basis in claim 1. Claims 1-8 were rejected under 35 U.S.C. 102(b) as anticipated by, or under 35 U.S.C. 103(a) as unpatentable over, Moebest et al. Claims 9-12 were rejected under 35 U.S.C. 103(a) as unpatentable over Moebest et al in view of Ferro et al.

Applicants replied on October 16, 2006, amending claims 4 and 43 and canceling claim 10. Applicants replied to all of the grounds of rejection and objection asserted in an appropriate manner.

The examiner mailed a Final Office action to applicants on January 12, 2007. The examiner indicated that applicants' arguments were persuasive in overcoming some of the rejections and objections previously set forth. Claims 53 and 55 were objected to for lack of a period; and claims 43-59 were objected to as using the terms peptide and polypeptide inconsistently. The examiner then set forth the following rejections under 35 U.S.C. 112, second paragraph:

Claims 4-5 as lacking antecedent basis for Rac GTPase inhibitors;
Claims 43-46 and 58-59 as lacking clarity for the terms Rho GAP, the GAP protein, their variants;
Claims 43, 48-52 and 58-59 as lacking clarity for "the C-terminus amino acid";
Claim 51 as lacking clarity as to what a fragment of a fragment is;
Claims 53-57 as lacking clarity as to what "an N-terminus membrane-translocation peptide" is;
Claim 58 as lacking clarity as to "amino acids (continuous amino acids)" and what the fusion polypeptide is;
Claim 43 as lacking clarity of the term "more" as to how many fusion polypeptides constitute said term; and
Claims 43 and 47 as lacking clarity for the term Rho family GAP.

Claims 1-8 remained rejected under 35 U.S.C. 102(b) as anticipated by, or under 35 U.S.C. 103(a) as unpatentable over, Moebest et al. Claims 9 and 11 remained rejected under 35 U.S.C. 103(a) as unpatentable over Moebest et al in view of Ferro et al. The examiner then made the action Final on the basis that applicants' amendments necessitated the new grounds of rejection.

Applicants filed this petition on March 12, 2007, objecting to the finality of the Office action as premature. Applicants also filed a reply to the Final Office action which has not been considered by the examiner pending this petition decision.

DISCUSSION

Applicants request withdrawal of the finality of the Office action of January 12, 2007, on the basis that the examiner's making of the above identified new rejections under 35 U.S.C. 112, second paragraph, was not necessitated by applicants' amendments. A review of applicants' amendments shows that only two claims were amended, claim 4 and claim 43. Claim 4 was amended to correct a typographical error and to delete a non-elected species, Rac 2. Claim 43, which originally depended from claim 1, was amended to make it an independent claim by incorporating essentially the entirety of claim 1 into it as a preamble. The only other changes were to delete the introductory phrase "The method of claim 1, 12 or 27" which was no longer necessary in view of the claim being made an independent claim and replacement of the term "active compound" with the term "GTPase inhibitor" to provide agreement with the inserted preamble from claim 1. No new terms were added to any claim and only existing terms were inserted so as to provide antecedent basis. No other claims were amended.

The examiner then made a new rejection under 35 U.S.C. 112, second paragraph, significantly different from the one in the previous Office action. Numerous rejections were made relating to lack of clarity or indefiniteness of claims 43-59 which had not been made before, but could have been made inasmuch as none of the claims changed in scope, or if changed in scope, the change

was only minor. None of these rejections were necessitated by applicants' two claim amendments, neither of which affected claim scope. In view of this, even though the rejections over prior art were maintained, the Finality of the Office action was premature.

DECISION

The petition is **GRANTED.** The Finality of the Office action mailed January 12, 2007, is withdrawn.

The application will be forwarded to the examiner for consideration of applicants' reply to the Office action received March 12, 2007, which will be considered as a reply to a non-Final Office action and further consideration not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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Baker & Hostetler LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington DC 20036

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OFFICE OF PETITIONS

In re Application of :
Duvernell, et al. :
Application No. 10/918,352 :
Filed: August 16, 2004 :
Attorney Docket No. 87353.2882 :
For: ZONE SPECIFIC REMOTE MASTER CONTROL PANEL FOR LADING DOCK EQUIPMENT

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed March 9, 2005, requesting that the Office correct the inventorship of the above-identified application on the basis that the declaration and power of attorney filed in this application on January 12, 2005 listed an incorrect application serial number.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

On January 12, 2005, the attorneys of record for this application and related application serial number 10/918,472 filed a declaration and power of attorney in each application. Petitioner asserts that the declaration and power of attorney in the above-identified application inadvertently listed application serial number 10/918,472 and the declaration and power of attorney in application serial number 10/918,352 inadvertently listed the above-identified application number. As a result of the error, the Office applied the inventive entity for this application in the related application and vice versa.

Petitioner asserts that the correct inventive entities were filed in each case, but due to the error with respect to the application serial numbers, the wrong inventive entities were associated with the wrong cases.

The Office does not concur with petitioner's characterization of the error. In this instance, the declaration filed on January 12, 2005 listed the invention as "ZONE SPECIFIC REMOTE MASTER CONTROL PANEL FOR LOADING DOCK EQUIPMENT" and stated the specification was filed on August 16, 2004 as application serial number **10/918, 352**. Three inventors executed this declaration. Therefore, those three inventors declared that they were the original, first and joint inventors of application no. 10/918,352.

37 CFR 1.182 provides relief for situations that are not specifically provided for in the regulations and the granting of such relief will be decided in accordance with the merits of each situation.

However, 37 CFR 1.48(a) specifically addresses the situation in which the correct inventors are not named in an executed declaration. MPEP 201.03. Section II, p. 200-6 states, "Instances where correction can be made include changes from:... erroneously identified joint inventors to different but actual joint inventors."

It would not be appropriate to fashion a remedy under 37 CFR 1.182 when 37 CFR 1.48(a) provides a remedy.

The petition is **dismissed**. Regarding fees, the fee for filing a petition under 37 CFR 1.182 is $400.00. Accordingly, deposit account 50-2036 was charged $400.00 on March 11, 2005.

To effectuate the desired change in inventorship, petitioner should file a petition under 37 CFR 1.48(a) in the above-identified application directed to the Technology Center.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

September 18, 2006

FILE COPY

Patent No. : 6,961,131 B2
Ser. No. : 10/918367
Inventor(s) : Usui, et al.
Issued : November 1, 2005
Title : **FILM THICKNESS MEASURING METHOD OF MEMBER TO BE PROCESSED USING EMISSION SPECTROSCOPY AND PROCESSING METHOD OF THE MEMBER USING THE MEASURING METHOD**
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

CBN/eme

10/918367

EME

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: US 6,961,131 B2

DATED : November 1, 2005

INVENTOR(S) : USUI, et al.

It is certified that error appears in the above-identified patent and that said Letters is hereby corrected as shown below:

(73) Assignee: delete "Opnext Japan, Inc., Tokyo (JP)" and

insert the following correct assignee --Hitachi, Ltd., Tokyo (JP)--.

MAILING ADDRESS OF SENDER:
Paul J. Skwierawski
ANTONELLI, TERRY, STOUT & KRAUS
1300 North 17TH Street, Suite 1800
Arlington, Virginia 22209-3873
Telephone 703-312-6600

Patent No. US 6,961,131 B2

No. of Additional Copies _____

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. *If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

AUG 25 2006

EME

PAGE 2/8 * RCVD AT 12/19/2006 3:47:49 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/13 * DNIS:2738300 * CSID:2125328598 * DURATION (mm-ss):02-26

RECEIVED
CENTRAL FAX CENTER
DEC 19 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:

Patentee(s)	:	Andre Sampaio
Patent No.	:	7,089,622
Patent Date	:	August 15, 2006
Serial No.	:	10/911,830
Filed	:	August 5, 2004
For	:	WRING MOP

RECEIVED
DEC 27 2006
OFFICE OF PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
Attn: Office of Petitions
(571)273-8300

Honorable Sir:

PETITION TO CORRECT THE ASSIGNEE UNDER 37 CFR 3.81(b)

Patentee hereby petitions that the assignee in the above patent be listed as Kaminstein Imports, Inc., a New York corporation, located at 400 Corporate Drive, Blauvelt, New York 10913.

The Assignee was inadvertently omitted in the Issue Fee Transmittal (Form PTOL-85B). An assignment was recorded on August 5, 2004 (Reel/Frame: 015665/0849), that is, before the issuance of the patent.

A Certificate of Correction is enclosed. Patentee requests that the file be forwarded to the Certificates of Correction Branch for issuance of a Certificate of Correction.

Charge the certificate of correction fee, the processing fee, and any additional fees to Deposit Account #06-0515.

Respectfully submitted,

Stephen E. Feldman
Reg. No. 22,473

I hereby certify that this correspondence is being sent to the Commissioner for Patents, Attn: Office of Petitions via facsimile to (571)273-8300 on 12/19/06

STEPHEN E. FELDMAN, P.C.
Attorneys for Patentee
12 East 41st Street
New York, New York 10017
(212)532-8585

BEST AVAILABLE COPY

12/19/2006 15:47 2125328598 STEPHEN E FELDMANPC PAGE 02

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

OGILVY RENAULT
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL, QC H3A2Y3
CANADA

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DEC 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Minel Kupferberg	:	DECISION ON PETITION
Application No. 10/918,383	:	TO MAKE SPECIAL UNDER
Filed: August 16, 2004	:	37 CFR 1.102(c)(1)
Attorney Docket No. 12115-12us PTN/df	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 4, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of a passport. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3745 action on the merits commensurate with this decision.

David Bucci for

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FEB 16 2007

OFFICE OF PETITIONS

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of :
Yoshiaki Saito :
Application No. 10/918,396 : ON PETITION
Filed: August 16, 2004 :
Attorney Docket No. 256070US2TTCRD DIV :

This is a decision on the petition, filed February 15, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 22, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2824 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Shunpei Yamazaki	: DECISION ON REQUEST FOR
Patent Number	: 7598927	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/918,402	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **811** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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FEB 08 2007

OFFICE OF PETITIONS

In re Application of	:	
YAMAZAKI, Shunpei	:	
Application No. 10/918,419	:	DECISION GRANTING PETITION
Filed: August 16, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12732-138002	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 7, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 22, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment and Information Disclosure Statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060303

DATE : March 3, 2006

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction on Patent No.: 6,914,838

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

OK to enter, approved by Andy Phung 3/3/06

RICHARD ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

3/3/06

AU 2824

SPE: RICHARD ELMS **Art Unit** 2824

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Baker & Hostetler LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington DC 20036

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MAY 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Reynard, et al. :
Application No. 10/918,472 : ON PETITION
Filed: August 16, 2004 :
Attorney Docket No. 87353.2883 :
For: ZONE SPECIFIC REMOTE MASTER CONTROL PANEL FOR LADING DOCK EQUIPMENT

This is a decision on the petition under 37 CFR 1.182, filed March 9, 2005, requesting that the Office correct the inventorship of the above-identified application on the basis that the declaration and power of attorney filed in this application on January 12, 2005 listed an incorrect application serial number.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

On January 12, 2005, the attorneys of record for this application and related application serial number 10/918,352 filed a declaration and power of attorney in each application. Petitioner asserts that the declaration and power of attorney in the above-identified application inadvertently listed application serial number 10/918,352 and the declaration and power of attorney in application serial number 10/918,352 inadvertently listed the above-identified application number. As a result of the error, the Office applied the inventive entity for this application in the related application and vice versa.

Petitioner asserts that the correct inventive entities were filed in each case, but due to the error with respect to the application serial numbers, the wrong inventive entities were associated with the wrong cases.

The Office does not concur with petitioner's characterization of the error. In this instance, the declaration filed on January 12, 2005 listed the invention as "ZONE SPECIFIC REMOTE MASTER CONTROL PANEL FOR LOADING DOCK EQUIPMENT" and stated the specification was filed on August 16, 2004 as application serial number **10/918, 472**. Two inventors executed this declaration. Therefore, those two inventors declared that they were the original, first and joint inventors of application no. 10/918,472.

37 CFR 1.182 provides relief for situations that are not specifically provided for in the regulations and the granting of such relief will be decided in accordance with the merits of each situation.

However, 37 CFR 1.48(a) specifically addresses the situation in which the correct inventors are not named in an executed declaration. MPEP 201.03. Section II, p. 200-6 states, "Instances where correction can be made include changes from:... erroneously identified joint inventors to different but actual joint inventors."

It would not be appropriate to fashion a remedy under 37 CFR 1.182 when 37 CFR 1.48(a) provides a remedy.

The petition is **dismissed**. Regarding fees, the fee for filing a petition under 37 CFR 1.182 is $400.00. Accordingly, deposit account 50-2036 was charged $400.00 on March 10, 2005.

To effectuate the desired change in inventorship, petitioner should file a petition under 37 CFR 1.48(a) in the above-identified application directed to the Technology Center.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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OFFICE OF PETITIONS

RABIN & BERDO, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

In re Application of	:	
Sam Shiaw-Shiang JIANG	:	
Application No. 10/918,486	:	DECISION ON PETITION
Filed: April 16, 2004	:	TO WITHDRAW
Attorney Docket No. IVSP0094USA	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 29, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Allen Wood and the attorneys of record, has been revoked by the assignee of the patent application on April 27, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6735.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

IFW

OIPE IAP78
FEB 08 2006
PATENT & TRADEMARK OFFICE

Attorney's Docket No.: 15626-060002 / KON-003D1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Chittibabu et al.	Art Unit	: 1753
Serial No.	: 10/918,493	Examiner	: Alan Diamond
Filed	: August 13, 2004		
Title	: LOW TEMPERATURE INTERCONNECTION OF NANOPARTICLES		

MAIL STOP PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR CORRECTION OF INVENTORSHIP UNDER 37 C.F.R. § 1.48(a)

Approved
AD
3/8/06

Pursuant to 37 C.F.R. § 1.48(a), Applicants hereby petition that the name of Michale Lee and Lian Li be added as join inventors based on the facts set forth by them in "STATEMENT UNDER 37 C.F.R. § 1.48(a)(1)" submitted herewith. Also submitted herewith are a new Combined Declaration and Power of Attorney signed by the actual inventors, a recorded assignment of the present application from Kethinni G. Chittibabu, Russell Gaudiana, Bill Beckenbaugh, and an assignment of the present application from Michael Lee and Lian Li, and a signed consent by the assignee.

Enclosed is a check for $130.00 for the required fee. Please apply any other charges to Deposit Account 06-1050, referencing Attorney's Docket No.: 15626-060002.

Respectfully submitted,

Date: 1-31-06

Tony Zhang
Reg. No. L0256

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906
21256885.doc

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

1-31-06
Date of Deposit

Christine Powers
Signature

Christine Powers
Typed or Printed Name of Person Signing Certificate

02/06/2006 TBESHAH1 00000002 10918493
01 FC:1464 130.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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THOMAS & RARING, P.C.
536 GRANITE AVENUE
RICHMOND VA 23226

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OFFICE OF PETITIONS

In re Application of	:	
Richard Foulkes	:	
Application Number: 10/918495	:	ON PETITION
Filing Date: 08/13/2004	:	
Attorney Docket Number: MILLER	:	
1	:	

This is a decision on the petition under 37 CFR 1.137(a),[1] filed on February 27, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on December 17, 2007, for failure to timely submit a reply to the non-final Office action mailed on July 16, 2007, which set a three (3) month statutory

---

[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

period for reply. A review of Office financial records reveals that on December 14, 2007, a two (2) month extension of time fee was received. Notice of Abandonment was mailed on February 13, 2008

Petitioner asserts that a timely response was filed on December 14, 2007, in the form of an amendment and two (2) month extension of time filed by EFS-Web. Petitioner has provided a copy of the amendment asserted to have been filed and the Electronic Acknowledgement Receipt showing receipt of the 21 pages of amendment and the fee worksheet on December 14, 2007.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[2] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action

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[2] 35 U.S.C. § 133.

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

The papers filed by EFS-Web on December 14, 2007, have been located. The amendment, however, is captioned for "Application No. 10/279,068" and does not reference the correct applicant's name, filing date, title, attorney docket number, art unit, or examiner's name for the subject application. As such, while it appears that applicant *intended* to file a response to the non-final Office mailed on July 16, 2007, applicant failed so to do. Rather, the showing of record is that applicant's attorney inadvertently filed a response intended for a different application.

To this end, the U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that petitioners believe that an amendment captioned for the subject application was filed on December 14, 2007, is not more persuasive than the papers that are shown to have been received in the official file.

The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[5] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.[6]

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[7] A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered

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[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[5] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[6] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N. D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

[7] Id.

"unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[8]

While the error which occurred here may have been unintentional, it does not rise to the level of unavoidable delay.

In summary, the showing of record is that the abandonment resulted from a mistake on the part of petitioner's counsel in failing to timely file a proper reply rather than as a result of unavoidable delay. As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Thus, the petition will be dismissed.

The electronic documents which contain the misdirected amendment have been closed in the Office's Image File Wrapper software viewing program. The paper documents will not be removed from the physical file however, as the Office does not remove papers from paper files which have been scanned.

ALTERNATIVE VENUE

Petitioners may wish to consider filing a renewed petition under 37 CFR 1.137(b),[9] which now provides that where the delay in

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[8] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

[9] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
401 Dulany Street
Alexandria, VA 22314

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(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64
Privacy Act Statement

PTO/SB/64 (01-08)
Approved for use through 05/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS & RARING, P.C.
536 GRANITE AVENUE
RICHMOND VA 23226

COPY MAILED

JUL 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Richard Foulkes	:	DECISION ON PETITION
Application Number: 10/918495	:	
Filing Date: 08/13/2004	:	
Attorney Docket Number: MILLER 1	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on May 20, 2008.

The petition is **GRANTED**.

This application became abandoned on December 17, 2007, for failure to timely submit a reply to the non-final Office action mailed on July 16, 2007, which set a three (3)-month shortened statutory period for reply. A review of Office financial records reveals that on December 14, 2007, a two (2) month extension of time was filed. Notice of Abandonment was mailed on February 13,

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d)).

2007. The petition filed on February 27, 2008, was dismissed on May 13, 2008.

The subject renewed petition was filed on May 20, 2008.

Receipt of the amendment filed as the required response is acknowledged.

The application is being referred to Technology Center Art Unit 3774 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Eitan Law Group
C/O LandonIP, Inc.
1700 Diagonal Road, Suite 450
Alexandria, VA 22314

COPY MAILED

AUG 27 2007

OFFICE OF PETITIONS

In re Application of Edan et al. :
Application No. 10/918,509 : Decision on Petition
Filing Date: August 16, 2004 :
Attorney Docket No. P-6412-US :

This is a decision on the petition filed March 28, 2007,under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Facts:

The application was filed August 16, 2004.

The declaration stated address of record associated with customer number 27130, which was, and continues to be,

EITAN, PEARL, LATZER & COHEN ZEDEK LLP
10 ROCKEFELLER PLAZA, SUITE 1001
NEW YORK NY 10020

A revocation/power of attorney/change of correspondence address was filed March 1, 2005. Eduardo Maayan signed the paper on behalf of Saifun Semiconductors Ltd. The paper lists Mayaan's title as "VP RSD." Registered Patent Attorney Vladimir Sherman signed the cover page. Attorney Sherman is not an attorney of record.

The Office placed the March 1, 2005 papers in the file but did not change the power of attorney for the application or the address or record.

A non-final Office action was mailed to the address of record on August 28, 2006. The Office action set a three (3) month shortened statutory period for reply.

The Office did not receive a reply to the Office action. As a result, the application became abandoned as of midnight on November 28, 2006.

A Notice of Abandonment was mailed to the address of record on March 22, 2007. The Notice of Abandonment was returned undelivered by the USPS on March 29, 2007. The envelope states the Notice was not delivered as a result of the expiration of a forwarding order.

Discussion:

Petitioner contends the holding of abandonment should be withdrawn because the Office mailed the non-final Office action to an incorrect address.

The petition would be granted if petitioner established the Office acted incorrectly when it failed to change the address of record in response to the receipt of the papers filed March 1, 2005. However, a review of the papers indicates the Office acted correctly.

For an assignee to take an action, such as changing the practitioners of record or the address of record, the assignee must comply with the provisions of 37 CFR 3.73.

37 CFR 3.73(b)(1) states,

> In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
>
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment).... For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or
>
> (ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

The papers filed March 1, 2005, did not include the showing required by 37 CFR 3.73(b)(1).

Upon completion and submission of the enclosed blank Certificate under 37 CFR 3.73(b) form, the power of attorney and change of address will be acceptable.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply to the outstanding Office action,, the required petition fee ($1,500 for a large entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

The Office notes Portable Document Format (PDF) fillable versions of both attached forms can be located at: http://www.uspto.gov/web/forms/index.html.

A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence to the address of record until an acceptable request to change the address of record is filed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Form PTO/SB/96 (Statement Under 37 CFR 3.73(b)) (1 page)
Privacy Act Notice (1 page)
Form PTO/SB/64 (Petition Under 37 CFR 1.137(b)) (2 pages)
Copy of Papers mailed August 28, 2006 (38 pages)
Copy of Notice of Abandonment mailed March 22, 2007 (2 pages)

PTO/SB/96 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number
_____	
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/918,509	08/16/2004	Mori Edan	P-6412-US	4480

27130 7590 08/28/2006

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EXAMINER
NGUYEN, CAMVAN T

ART UNIT	PAPER NUMBER
2192	

DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/918,509	EDAN ET AL.	
	Examiner	Art Unit	
	CamVan T. Nguyen	2192	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 January 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *16 August 2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *1/10/2005*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to because in figure 5:

   a. Signal CMDprogram is the same as element 34 in figure 3 and should be so labeled.

   b. Signal cb_prg_ers_end feeding into the RST of LATCH is misspelled.

2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities:

   a. Paragraph 21, lines 7-8 recites "the micro-controller may receive the new user commands from the micro-controller." It is not clear how a microcontroller can receive user commands from itself.

   b. Paragraph 24, lines 9-10 recites "thence to the NVM 20." It is not clear how the microcontroller transfer decoded commands to the periphery blocks and thence to the NVM 20 (NVM device 20), since NVM 20 *comprises of* the microcontroller.

   c. Paragraph 31, lines 9-12 recites "Part of such an OTP section in NVM array 28 may be accessed by an external device such as, for example, a PDA, a handheld device, a PLD, a memory ~~ear~~ card, a multimedia card etc." Since memory cards and multimedia cards are passive devices, it is not clear how they can access the NVM array 28.

   Appropriate correction is required.

4. Claim 7 is objected to because of the following informalities: "defected area" is grammatically incorrect. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 8, 13-15, & 21-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

a. Claim 8 recites the limitation "wherein said microcontroller is adapted to execute commands by polling said second NVM array." It is not clear how the microcontroller can poll the second NVM array, which is a passive device; i.e. it is not clear how a passive device can initiate providing data at it's interface such that the microcontroller can poll the data. Furthermore, the specification does not describe "polling" in regards to reading the second NVM array. According to the specification, the microcontroller reads the second NVM array by incrementing a Program Counter, which is typically a register that holds the location or address of the next command or instruction to be executed (paragraph 0025, lines 5-11). "Polling" is only described with regards to how the microcontroller

fetch the next decoded and synchronized command from it's interface unit comprising of a command decoder (CMD) 30 and command synchronization block (Sync block) 50 (figures 3-5; paragraph 0037, lines 16-24).

b. Claims 13-15 recites the limitations of "wherein said external device" is a "programmable logic device", a "memory card", or a "multimedia card." Claims 13-15 are dependent on claim 10 which recites the limitation "the microcontroller is adapted to *receive* said at least one command from an external device." The specification does not describe how the microcontroller "receives" the command for these devices. The limitation "receive" could be construed as implying that the microcontroller plays a passive role in the data transfer. However, the "programmable logic device", "memory card", and "multimedia card" are *passive devices*, which are not capable of being *initiators* of the data transfer, i.e. *sending* a command to the microcontroller.

c. Claim 21-23 recites the limitations "wherein said external device" is a "programmable logic device", a "memory card", or a "multimedia card." Claims 21-23 are dependent on claim 17 which recites the limitation "an external device to *provide* said at least one command to said microcontroller of said NVM device." The specification does not describe how the external device "provides" the command to the microcontroller. The limitation "provide" could be construed as implying that the external

device plays an active role in the data transfer; however, the "programmable logic device", "memory card", and "multimedia card" are *passive devices,* which are not capable of being *initiators* of the data transfer, i.e. *providing* a command to the microcontroller.

8. Claims 8, 13-15, 17 & 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. For claim 8, see rejection under the first paragraph of 35 U.S.C. 112. Due to lack of written description and ambiguities, no art has been applied thereto, see *In re Steele*, 49 CCPA 1295, 305 F.2d 859, 134 USPQ 292 (1962) and *In re Wilson,* 424 F.2d 1382, 165 USPQ 494 (CCPA 1970). The examiner will not speculate as to the intended meaning.

b. For claims 13-15, see rejection under the first paragraph of 35 U.S.C. 112. For purpose of examination of these particular claims, claim 10 is construed such that the microcontroller is the initiator of the data transfer; i.e. it is the active device which *requests/reads* said at least one command from the external device and thereby *receiving* the command from the external device.

c. Claim 17 recites the limitation "said at least one command". There is insufficient antecedent basis for this limitation in the claim. For purpose of

examination, "said at least one command" will be construed as "at least one command."

d. For claims 21-23, see rejection under the first paragraph of 35 U.S.C. 112. For purpose of examination of these particular claims, claim 17 is construed such that the microcontroller is the initiator of the data transfer; i.e. it is the active device which *requests/reads* the at least one command from the external device and, thus, said external device is *providing* the command to the microcontroller.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-4, 10, 17, 18, 24, 26 & 29 are rejected under 35 U.S.C. 102(b) as being unpatentable by Bauer et al. (U.S. Patent No. 5,822,256).

a. For claim 1, a non-volatile memory (NVM) device (figure 2, nonvolatile memory device 20) comprising a micro-controller (figure 2, control engine

36; column 7, lines 52-53) adapted to control peripheral circuitry (figure 2, column decoder 30, row decoder 28, sensing circuitry 32, reference array 34 and voltage switch 38; column 7, lines 57-59) associated with an NVM array (figure 2, memory array 22; column 7, lines 1-5, nonvolatile memory cells within memory array 22).

b. For claim 2, the NVM device according to claim 1, further comprising a user command interface (figure 2, command interface 40) to receive at least one command and insert said command to said micro-controller (column 7, line 66 – column 8, line 3).

c. For claims 3 & 4, the NVM device according to claim 1, further comprising a second NVM array configured to store at least one command to be executed by said micro-controller (column 7, lines 52-54, implied: microcode is typically stored in nonvolatile memory) wherein said second NVM array is a program file read only memory (PFROM) (the applicant's specification describes the PFROM as an NVM array which may be used to store program code, paragraph 27 lines 1-2 & paragraph 28 lines 1-2).

d. For claim 10, the NVM device according to claim 2, wherein said micro-controller is adapted to receive said at least one command from an external device (column 7, line 66 – column 8, line 3).

e. For claim 17, a system comprising: a NVM device including a NVM array adapted to store data and commands (figures 1 & 2, memory array 22; column 3, lines 59-62), peripheral circuitry adapted to operate said NVM

array (figure 2, column decoder 30, row decoder 28, sensing circuitry 32, reference array 34 and voltage switch 38; column 7, lines 34-47 & 59-61) and a micro-controller adapted to control said peripheral circuitry (column 7, lines 57-59); and an external device to provide said at least one command to said micro-controller of said NVM device (figure 1, cpu; column 7, line 66 – column 8, line 3).

f. For claim 18, the system of claim 17, wherein said NVM device includes a user command interface (figure 2, command interface 40) to receive at least one command and provide said at least one command to said micro-controller (column 7, line 66 – column 8, line 3).

g. For claim 24, a method for operating a non-volatile memory (NVM) device, comprising: providing at least one operation command to a micro-controller of said NVM device (column 7, line 66 – column 8, line 3); and applying operating signals to peripheral circuitry of said NVM device to operate a NVM array based on said at least one operation command (column 7, lines 34-47 & 59-61).

h. For claims 26 & 29, the method of claim 24, where in said providing at least one operating command is performed during manufacturing or power-up of said NVM device (column 13, lines 32-34 & 39-42).

11. Claims 1-4, 9, 10, 17, 18 & 24 are rejected under 35 U.S.C. 102(b) as being unpatentable by Lin et al. (U.S. Patent No. 6,523,083 B1).

a. For claim 1, a non-volatile memory (NVM) device (figure 1) comprising a micro-controller (figure 1, microcontroller unit (MCU) 110) adapted to control peripheral circuitry (figure 1, peripheral interface controller 108; column 1, lines 44-51) associated with an NVM array (figure 1, flash memory 114).

b. For claim 2, the NVM device according to claim 1, further comprising a user command interface (figure 1, peripheral interface controller 108) to receive at least one command and insert said command to said micro-controller (figure 1, arrow from peripheral interface controller 108 to MCU 110; column 1, lines 44-51 & 60 - 65).

c. For claims 3 & 4, the NVM device according to claim 1, further comprising a second NVM array (figure 1, loader ROM 112) configured to store at least one command to be executed by said micro-controller (column 1, lines 51-54; column 2, lines 2-5) wherein said second NVM array is a program file read only memory (PFROM) (the applicant's specification describes the PFROM as an NVM array which may be used to store program code, paragraph 27 lines 1-2 & paragraph 28 lines 1-2).

d. For claim 9, the NVM device according to claim 1, wherein said micro-controller is adapted to receive a second command while said peripheral circuitry operate a first command, interrupt the execution of said first

command, and control said peripheral circuitry to operate said second command (figure 1; column 1, line 61 – column 2, line 2, suspends current executed command).

e. For claim 10, the NVM device according to claim 2, wherein said micro-controller is adapted to receive said at least one command from an external device (column 1, lines 60 - 65).

f. For claim 17, a system comprising: a NVM device including a NVM array adapted to store data and commands (figure 1, flash memory 114; column 1, lines 54-56), peripheral circuitry adapted to operate said NVM array (figure 1, peripheral interface controller 108 connected to flash memory 114) and a micro-controller adapted to control said peripheral circuitry (figure 1, peripheral interface controller 108, column 1, lines 44-51); and an external device to provide said at least one command to said micro-controller of said NVM device (figure 1, host 100; column 1, lines 63-65).

g. For claim 18, the system of claim 17, wherein said NVM device includes a user command interface (figure 1, peripheral interface controller 108) to receive at least one command and provide said at least one command to said micro-controller (figure 1, arrow from peripheral interface controller 108 to MCU 110; column 1, lines 44-47 & 60 - 65).

h. For claim 24, a method for operating a non-volatile memory (NVM) device, comprising: providing at least one operation command to a micro-controller of said NVM device (column 1, lines 62-65); and applying

operating signals to peripheral circuitry of said NVM device to operate a NVM array based on said at least one operation command (column 1, lines 44 – 49).

12. Claims 1-3, 5, 10-12 & 17-20 are rejected under 35 U.S.C. 102(b) as being unpatentable over Piau et al. (U.S. Patent Pub. No. 2003/0079077 A1).

a. For claim 1, a NVM device comprising of a microcontroller (figure 2, microprocessor) adapted to control peripheral circuitry (figure 2, flash sequencer control logic) associated with an NVM array (figure 2, flash memory module).

b. For claim 2, the NVM device according to claim 1, further comprising a user command interface (figure 2, PCMCIA ATA interface and IDE interface) to receive at least one command and insert said command to said micro-controller (figure 3e; paragraph 0012, lines15-19).

c. For claims 3, the NVM device according to claim 1, further comprising a second NVM array configured to store at least one command to be executed by said micro-controller (figure 2, Read Only Memory; paragraph 0019, lines 3-4).

d. For claim 5, the NVM device according to claim 3, wherein said at least one command, when executed during a power-up process configures said NVM device (figures 3a, 3b & 3c; paragraph 0012)

e. For claim 10, the NVM device according to claim 2, wherein said micro-controller is adapted to receive said at least one command from an external device (figure 2, to host or external device; figure 3a, step 318; paragraph 0012).

f. For claims 11 & 12, the NVM device according to claim 10, wherein said external device is a PDA or a handheld device (paragraph 0004, lines 1-5).

g. For claim 17, a system comprising: a NVM device including a NVM array adapted to store data and commands (figure 2, flash memory module), peripheral circuitry adapted to operate said NVM array (figure 2, flash sequencer control logic) and a micro-controller adapted to control said peripheral circuitry (figure 2, microprocessor); and an external device (figure 2, to host or external device; paragraph 0004, lines 1-5) to provide said at least one command to said micro-controller of said NVM device (figure 3e; paragraph 0012).

h. For claim 18, the system of claim 17, wherein said NVM device includes a user command interface (figure 2, PCMCIA ATA interface and IDE interface) to receive at least one command and provide said at least one command to said micro-controller (figure 3e; paragraph 0012).

i. For claims 19 & 20, the NVM device according to claim 10, wherein said external device is a PDA or a handheld device (paragraph 0004, lines 1-5).

13. Claims 1, 2, 10-23 are rejected under 35 U.S.C. 102(b) as being unpatentable over Harari et al. (U.S. Patent No. 5,887,145).

a. For claim 1, a NVM device (figures 6 & 7, mother card 10) comprising of a microcontroller (figures 5A & 7, comprehensive controller 41) adapted to control peripheral circuitry (figure 7, peripheral circuitry is an inherent part of ROM and Flash memory which make up "main" memory) associated with an NVM array (figure 7, "main" memory 60 comprising of ROM and/or Flash memory).

b. For claim 2, the NVM device according to claim 1, further comprising a user command interface (figures 4 & 7, host interface 54) to receive at least one command and insert said command to said micro-controller (figure 7, implied).

c. For claim 10, the NVM device according to claim 2, wherein said micro-controller is adapted to receive said at least one command from an external device (figure 1, host system 200; figure 7, daughter card 20).

d. For claims 11 & 12, the NVM device according to claim 10, wherein said external device is a PDA or a handheld device (column 12, lines 46- 50, PDA, camera).

e. For claim 13, the NVM device according to claim 10, wherein said external device is a PLD (figure 7, daughter card 20, ROM could be used as a PLD).

f. For claims 14 & 15, the NVM device according to claim 10, wherein said external device is a memory card or a multimedia card (figure 7, daughter card 20; column 8, lines 45-46, a multimedia card is a type of memory card comprising of nonvolatile memory).

g. For claim 16, the NVM device according to claim 1, wherein said microcontroller is adapted to control operation of at least a second NVM device (figure 7, comprehensive controller 41 on mother card 10 not only controls operation of "main" memory comprising of ROM and/or flash memory but is also adapted to control operation of daughter card 20)

h. For claim 17, a system comprising: a NVM device (figure 6 & 7, mother card 10) including a NVM array adapted to store data and commands (figure 7, "main" memory 60 comprising of ROM and/or Flash memory), peripheral circuitry adapted to operate said NVM array (figure 7, ROM and Flash memory inherently have peripheral circuitry) and a micro-controller adapted to control said peripheral circuitry (figure 7, comprehensive controller 41); and an external device (figure 1, host system 200) to provide said at least one command to said micro-controller of said NVM device (figures 1 & 7, implied: host system 200 sends commands to comprehensive controller 41 to access "main" memory 60).

i. For claim 18, the system of claim 17, wherein said NVM device includes a user command interface (figures 4 & 7, host interface 54) to receive at

least one command and provide said at least one command to said micro-controller (figure 7, implied).

j. For claims 19 & 20, the system of claim 18, wherein said external device is a PDA or a handheld device (column 12, lines 46- 50 & 56-57, PDA, camera).

k. For claim 21, the system of claim 18, wherein said external device is a PLD (figure 7, daughter card 20, ROM could be used as a PLD).

l. For claims 22 & 23, the system of claim 18, wherein said external device is a memory card or a multimedia card (figure 7, daughter card 20; column 8, lines 45-46, a multimedia card is a type of memory card comprising of nonvolatile memory).

14. Claims 1 & 16 are rejected under 35 U.S.C. 102(b) as being unpatentable over Chen et al. (U.S. Patent No. 5,867,429).

a. For claim 1, a NVM device (figure 1, memory system 11) comprising of a microcontroller (figure 1, flash memory controller 23) adapted to control peripheral circuitry (figure 2, all elements except for the flash EEPROM cells 33) associated with an NVM array (figures 1 & 2, flash EEPROM cells 33; column 3, lines 35-43).

b. For claim 16, the NVM device according to claim 1, wherein said microcontroller is adapted to control operation of at least a second NVM device (column 3, lines 43-47).

15. Claims 24-29 are rejected under 35 U.S.C. 102(b) as being unpatentable over Sun et al. (U.S. Patent No. 5,901,330).

a. For claim 24, a method for operating a non-volatile memory (NVM) device (figures 1 & 3, integrated circuit 310), comprising: providing at least one operation command to a micro-controller of said NVM device (figure 4A, step 400; column 11, lines 1-4; column 12, lines 46-47); and applying operating signals to peripheral circuitry of said NVM device to operate a NVM array based on said at least one operation command (figure 1, flash control registers 150; column 4, lines 47-50; column 5, lines 17-24; column 11, lines 11-25).

b. For claims 25-28, the method of claim 24, wherein said providing at least one operating command is performed during development, manufacturing, production, testing, or power-up of said NVM device (figure 4, step 400; column 3, line 63 – column 4, line 2, original software can be loaded into the device during *manufacture or prior* to mounting the chip into the system; column 15, lines 16-43: *development* (lines 26-34), *manufacturing* (lines 3-24), *production* (lines 35-37), *testing* (line 34), in-circuit programming code embedded in the microcontroller can be *updated and modified on the fly* (line 41) – thus the "update" command can be performed at anytime).

c. For claim 29, the method of claim 24, wherein said providing at least one operating command is performed during power-up of said NVM device (figure 4A; column 12, lines 62-65, implied: during power-up a device will enter system reset mode; column 15, lines 39-43, "updated and modified on the fly" – thus the "update" command can be performed during power-up).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

17. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer et al. (U.S. Patent No. 5,822,256) as applied to claims 1 & 3 above, and further in view of Hayes, Jr. (U.S. Patent No. 5,726,636). The Bauer et al. teaches at least one command executed by the microcontroller. It does not teach said at least one command, when executed during a power-up process, validates that said NVM device is in a predetermined threshold voltage level. The Hayes, Jr. teaches a power-up sequence wherein a microcontroller in a cellular telephone performs a test to estimate remaining battery capacity of the cellular telephone by measuring the battery voltage across a load and comparing it to a predetermined threshold voltage level to ascertain whether the charge level of the battery is sufficient to power the telephone and execute an emergency wireless communication; the microcontroller initiates an alarm sequence if

the battery charge level is below the predetermined level (column 3, lines 14 – 24; column 4, lines 46-52). It would have been obvious to a person having ordinary skill in the art at the time of the invention to implement the power-up sequence taught by the Hayes, Jr. reference in the NVM device taught by the Bauer et al. reference whereby a command is executed during the power-up process validates that the NVM device is in a predetermined threshold voltage level. This validation is necessary in order to determine whether the NVM device has sufficient power supply voltage applied to execute commands such as program, read, and erase the NVM array.

18. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer et al. (U.S. Patent No. 5,822,256) as applied to claims 1 & 3 above, and further in view of well-known practices in the art. The Bauer et al. reference teaches a redundancy scheme which replaces a defected area of said NVM array with an unused area of said NVM array (column 4, lines 10-16). It teaches that an upload status user command is used to determine which blocks are defective (column 12, lines 2-18 & 25-30) and whether the NVM device is fully functional. It does not teach that said at least one command, when executed during power-up process, replaces a defected area of said NVM array with an unused area of said NVM array. However, it is well known in the art at the time of the invention that a memory test is typically performed as part of the power-on self-test (POST) when a system is powered on. The memory test is performed during the power-up process in order to determine whether there is sufficient memory to execute program code and to isolate bad memory (i.e. not enable/map them

for use in the system) in order to avoid corruption of data stored to bad memory area. Official Notice is hereby taken. Therefore, it would have been obvious to implement the ability (said at least one command) to check for and replace a defective area of said NVM array with an unused area of said NVM array of the NVM during the power-up process such that the defective area is not used to store data which would result in the data being corrupted.

19. Claims 13 & 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer et al. (U.S. Patent No. 5,822,256) as applied to claims 1, 2, 10, 17 & 18 above, and further in view of Mantey et al. (U.S. Patent Pub. No. 2003/0023793). The Bauer et al. reference teaches an external device comprising of a computer system. It does not teach that the external device is a programmable logic device (PLD). The Mantey et al. reference teaches a method and system wherein PLD devices comprising of static RAM cells (volatile memory) can automatically retrieve configuration code from nonvolatile memory comprising of EEPROM at system power-up (paragraph 0008; paragraph 0009, lines 1-5). It would have been obvious to a person having ordinary skill in the art at the time of the invention to use the PLD device comprising of volatile memory (SRAM) taught by the Mantey et al. reference with the NVM device taught by the Bauer et al. reference in a system wherein the PLD device could be configured at system power up. The NVM device is used to store the configuration code of the PLD device and can retain this code even when the system is powered down. In such a system, in order for the PLD to retrieve the configuration code, it has to initiate the transfer by

sending the NVM device a command to "read" or transfer the code. Using a PLD device with volatile memory such as SRAM allows more flexibility in configuration. The logic of the PLD device could be changed to carry out different functions as needed by the system per system power cycle such that the overall system is easily adapted to execute different functions. This flexibility is also especially useful during system development and bring-up phase where a new system still has to be tested, debugged, and tweaked as needed to perform correctly. New configuration code for the PLD device is easily programmed into the NVM device using well-known methods allowing for quick and inexpensive update of the PLD device's functionality. Additionally, using PLD devices comprising of SRAM cells instead of nonvolatile memory cells will improve system bandwidth since access to SRAM memory are faster than access to nonvolatile memory. There is only a minimal overhead at system power up to retrieve the code from the NVM device and configure the PLD device.

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Lee et al. (U.S. 2005/0193161 A1) teaches a flash memory controller comprising of a processor for receiving at least one command form a host system comprising of a personal computer or any other type of computer system. It teaches claims 1-4, 10, 11, 17-20 & 24.

b. Dvir et al. (U.S. Patent No. 6,826,107 B2) teaches a memory card comprising of a controller, memory, and high voltage switch logic for selectively routing a voltage to the controller or the memory depending on whether the voltage input exceeds a predefined level. It also teaches that the memory card can be used in cellular phones, digital camera and handheld device such as a PDA.

c. Hasbun et al. (U.S. Patent No. 5,696,929) teaches a flash EEPROM memory module joined to a memory bus through a flash controller. A secondary cache is connected to the memory bus. The flash controller comprises a microprocessor and local buffer memory to carry out operations with respect to the module under control of local read only memory or firmware. Alternatively, the flash controller comprises a microcontroller and state machines designed to carry out various functions with respect to the module. The flash controller includes the logic necessary (whether in software, firmware (ROM implied), or hardware) to accomplish the various steps necessary to access, read, write, and erase the flash memory array. This reference teaches claims 1-4, 10, 17, 18 & 24.

d. Liang et al. (U.S. Patent Pub. No. 2005/0138272) teaches using a host system such as a computer, a card reader, cellular phone (handheld device) and alike to control a flash memory controller (microcontroller) to save/retrieve data to/from a flash memory (NVM device). A program memory internal or external (second NVM array) to the flash memory controller enables the flash memory

controller to process the saving/retrieving to the flash memory according to a preset program of the program memory. It teaches claims 1-4, 10-12, 17-20 & 24.

e. Norman et al. (U.S. Patent 5,715,193) teaches a flash memory system with an integrated microcontroller, first NVM array, and second NVM array. The microcontroller could also interface with more than one flash memory.

f. Verna et al. (U.S. Patent Pub. 2003/0155659 A1) teaches a multi-chip memory module including two or more stacked integrated circuits in a memory card package that could be used with a personal computer, PDA, digital camera, or any other electronic-based appliance used in a consumer setting.

g. Harari et al. (U.S. Patent 6,304,485 B1) teaches a system of flash EEPROM memory chips with the ability to remap and replace defective cells with substitute cells.

h. Brennan, Jr. (U.S. Patent 5,233,559) teaches a method and apparatus for providing row redundancy in non-volatile semiconductor memories.

i. Yeh et al. (U.S. Patent Pub. No. 2005/0226054 A1) teaches an integrated circuit comprising of a microcontroller, peripheral circuitry, and flash memory.

j. Smith et al. (U.S. Patent Pub. No. 2005/0268025 A1) teaches a memory unit comprising of a microcontroller interfacing with multiple memory arrays.

k. Eitan (U.S. 5,963,465) teaches symmetric segmented memory array architecture mentioned as an example of a PFROM by the applicant, although the Eitan patent does not refer to the memory array as a PFROM.

l. Sun et al. (U.S. Patent No. 6,842,820 B2) teaches an integrated circuit with in-circuit programming capability comprising of a microcontroller and two or more banks of embedded non-volatile memory arrays.

m. Wallace et al. (U.S. Patent No. 5,663,901) teaches a common controller interfacing with multiple memory cards and alternatively, a memory card with it's own controller.

n. Norman et al. (U.S. Patent 5,430,859) teaches a common controller interfacing with several solid-state memory devices via a device bus.

o. Dvir (U.S. Patent No. 6,078,539) teaches a method and device for initiating a memory array during power up.

p. Shiota et al. (U.S. Patent 6,744,692 B2) teaches a memory system comprising of a nonvolatile memory, a buffer memory, and a controller. The controller controls, in response to an access request from an external apparatus, first, second, and third data transfers in a time sharing manner.

Examiner's Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CamVan T. Nguyen whose telephone number is 571-270-1039. The examiner can normally be reached on Monday-Thursday 8:30am - 6:00pm; alternate Friday 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Robertson can be reached on 571-272-4186. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

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CN
CamVan Nguyen
8/17/2006

DAVID L. ROBERTSON
PRIMARY EXAMINER

Notice of References Cited	Application/Control No. 10/918,509	Applicant(s)/Patent Under Reexamination EDAN ET AL.	
	Examiner CamVan T. Nguyen	Art Unit 2192	Page 1 of 2

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*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
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*	B	US-6,523,083	02-2003	Lin et al.	711/103
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	Examiner CamVan T. Nguyen	Art Unit 2192	Page 2 of 2

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	M	US-			

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Sheet 1 of 10

Complete if Known	
Application Number	10/918,509
Filing Date	August 16, 2004
First Named Inventor	EDAN, Mori
Group Art Unit	2186
Examiner Name	Not yet known
Attorney Docket Number	P-6412-US

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Examiner Initials*	Cite No.[1]	U.S. Patent Document Number	Kind Code[2] (if known)	Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
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Sheet 2 of 10

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First Named Inventor	EDAN, Mori
Group Art Unit	2186
Examiner Name	Not yet known
Attorney Docket Number	P-6412-US

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Sheet 3 of 10

Complete if Known	
Application Number	10/918,509
Filing Date	August 16, 2004
First Named Inventor	EDAN, Mori
Group Art Unit	2186
Examiner Name	Not yet known
Attorney Docket Number	P-6412-US

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	U.S. Patent Document Number	Kind Code[2] (if known)	Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
CN	55	5,933,366		Yoshikawa	Aug. 3, 1999	
CN	56	6,649,972		Eitan	Nov. 18, 2003	
CN	57	4,380,057		Kotecha et al.	Apr. 12, 1983	
CN	58	4,780,424		Holler et al.	Oct. 25, 1988	
CN	59	4,847,808		Kobatake	Jul. 11, 1989	
CN	60	4,870,470		Bass, Jr. et al.	Sep. 26, 1989	
CN	61	4,916,671		Ichiguchi	Apr. 10, 1990	
CN	62	4,941,028		Chen et al.	Jul. 10, 1990	
CN	63	5,075,245		Woo et al.	Dec. 24, 1991	
CN	64	5,168,334		Mitchell et al.	Dec. 1, 1992	
CN	65	5,399,891		Yiu et al.	Mar. 21, 1995	
CN	66	5,414,693		Ma et al.	May 9, 1995	
CN	67	5,553,018		Wang et al.	Sep. 3, 1996	
CN	68	5,661,060		Gill et al.	Aug. 26, 1997	
CN	69	5,683,925		Irani et al.	Nov. 4, 1997	
CN	70	5,777,919		Chi-Yung et al.	Jul. 7, 1998	
CN	71	5,966,603		Eitan	Oct. 12, 1999	
CN	72	5,990,526		Bez et al.	Nov. 23, 1999	
CN	73	5,599,727		Hakozaki et al.	Feb. 4, 1997	
CN	74	5,656,513		Wang et al.	Aug. 12, 1997	

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Examiner Initials*	Cite No.[1]	Foreign Patent Document Office[3]	Number[4]	Kind Code[5] (if known)	Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T[6]
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Examiner Signature	/Camvan Nguyen/	Date Considered	08/08/2006

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

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Sheet 4 of 10

Complete if Known	
Application Number	10/918,509
Filing Date	August 16, 2004
First Named Inventor	EDAN, Mori
Group Art Unit	2186
Examiner Name	Not yet known
Attorney Docket Number	P-6412-US

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CN	75	5,793,079		Georgescu et al.	Aug. 11, 1998	
CN	76	6,346,442		Aloni et al.	Feb. 12, 2002	
CN	77	4,839,705		Tigelaar et al.	Jun. 13, 1989	
CN	78	6,559,500		Torii	May 6, 2003	
CN	79	6,541,816		Ramsbey et al.	Apr. 1, 2003	
CN	80	6,653,191		Yang et al.	Nov. 25, 2003	
CN	81	6,642,586		Takahashi	Nov. 4, 2003	
CN	82	6,617,215		Halliyal et al.	Sep. 9, 2003	
CN	83	6,566,194		Ramsbey et al.	May 20, 2003	
CN	84	2003/0197221		Shinozaki et al.	Oct. 23, 2003	
CN	85	2003/0190786		Ramsbey et al.	Oct. 9, 2003	
CN	86	6,133,095		Eitan et al.	Oct. 17, 2000	
CN	87	5,617,357		Haddad et al.	Apr. 1, 1997	
CN	88	6,287,917		Park et al.	Sep. 11, 2001	
CN	89	5,402,374		Tsuruta et al.	Mar. 28, 1995	
CN	90	6,717,207		Kato	Apr. 6, 2004	
CN	91	6,765,259		Kim	Jul. 20, 2004	
CN	92	6,307,807		Sakui et al.	Oct. 23, 2001	
CN	93	5,359,554		Odake et al.	Oct. 25, 1994	
CN	94	5,689,459		Chang et al.	Nov. 18, 1997	

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

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Sheet 5 of 10

Complete if Known	
Application Number	10/918,509
Filing Date	August 16, 2004
First Named Inventor	EDAN, Mori
Group Art Unit	2186
Examiner Name	Not yet known
Attorney Docket Number	P-6412-US

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CN	95	6,074,916		Cappelletti	Jun. 13, 2000	
CN	96	6,326,265		Liu et al.	Dec. 4, 2001	
CN	97	6,081,456		Dadashev	Jun. 27, 2000	
CN	98	4,527,257		Cricchi	Jul. 2, 1985	
CN	99	5,812,457		Arase	Sep. 22, 1998	
CN	100	5,440,505		Fazio et al.	Aug. 8, 1995	
CN	101	5,523,972		Rashid et al.	Jun. 4, 1996	
CN	102	5,563,823		Yiu et al.	Oct. 8, 1996	
CN	103	3,895,360		Cricchi et al.	Jul. 15, 1975	
CN	104	6,240,032		Fukumoto	May 29, 2001	
CN	105	5,422,844		Wolstenholme et al.	Jun. 6, 1995	
CN	106	5,424,978		Wada et al.	Jun. 13, 1995	
CN	107	5,623,438		Guritz et al.	Apr. 22, 1997	
CN	108	5,870,335		Khan et al.	Feb. 9, 1999	
CN	109	5,418,743		Tomioka et al.	May 23, 1995	
CN	110	5,450,354		Sawada et al.	Sep. 12, 1995	
CN	111	5,521,870		Ishikawa	May 28, 1996	
CN	112	6,285,589		Kajitani	Sep. 4, 2001	
CN	113	5,027,321		Park	Jun. 25, 1991	
CN	114	5,712,815		Bill et al.	Jan. 27, 1998	

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Sheet 6 of 10

Complete if Known	
Application Number	10/918,509
Filing Date	August 16, 2004
First Named Inventor	EDAN, Mori
Group Art Unit	2186
Examiner Name	Not yet known
Attorney Docket Number	P-6412-US

U.S. PATENT DOCUMENTS

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CN	115	5,295,108		Higa	Mar. 15, 1994	
CN	116	5,537,358		Fong	Jul. 16, 1996	
CN	117	2003/0142544		Maayan et al.	Jul. 31, 2003	
CN	118	6,252,799		Liu et al.	Jun. 26, 2001	
CN	119	2004/0008541		Maayan et al.	Jan. 15, 2004	
CN	120	6,353,554		Banks	Mar. 5, 2002	
CN	121	2002/0034097		Banks	Mar. 21, 2002	
CN	122	5,450,341		Sawada et al.	Sep. 12, 1995	
CN	123	6,519,180		Tran et al.	Feb. 11, 2003	
CN	124	6,215,697		Lu et al.	Apr. 10, 2001	
CN	125	5,717,632		Richart et al.	Feb. 10, 1998	
CN	126	5,949,714		Hemink et al.	Sep. 7, 1999	
CN	127	6,304,485		Harari et al.	Oct. 16, 2001	
CN	128	5,870,334		Hemink et al.	Feb. 9, 1999	
CN	129	5,717,635		Akatsu	Feb. 10, 1998	
CN	130	5,434,825		Harari	Jul. 18, 1995	
CN	131	5,293,563		Ohta	Mar. 8, 1994	
CN	132	4,388,705		Sheppard	Jun. 14, 1983	
CN	133	4,389,705		Sheppard	Jun. 21, 1983	
CN	134	5,784,314		Sali et al.	Jul. 21, 1998	

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Examiner Initials*	Cite No.[1]	Foreign Patent Document Office[3]	Number[4]	Kind Code[5] (if known)	Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T[6]
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Examiner Signature	/Camvan Nguyen/	Date Considered	08/08/2006

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Sheet 7 of 10

Complete if Known	
Application Number	10/918,509
Filing Date	August 16, 2004
First Named Inventor	EDAN, Mori
Group Art Unit	2186
Examiner Name	Not yet known
Attorney Docket Number	P-6412-US

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CN	135	5,812,456		Hull et al.	Sep. 22, 1998	
CN	136	5,828,601		Hollmer et al.	Oct. 27, 1998	
CN	137	5,886,927		Takeuchi	Mar. 23, 1999	
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CN	141	5,841,700		Chang	Nov. 24, 1998	
CN	142	6,469,935		Hayashi	Oct. 22, 2002	
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CN	145	5,986,940		Atsumi et al.	Nov. 16, 1999	
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CN	147	2003/0117841		Yamashita	Jun. 26, 2003	
CN	148	6,351,415		Kushnarenko	Feb. 26, 2002	
CN	149	6,496,414		Kasa et al.	Dec. 17, 2002	
CN	150	6,222,762		Guterman et al.	Apr. 24, 2001	
CN	151	6,201,737		Hollmer et al.	Mar. 13, 2001	
CN	152	6,044,022		Nachumovsky	Mar. 28, 2000	
CN	153	6,084,794		Lu et al.	Jul. 4, 2000	
CN	154	5,936,888		Sugawara	Aug. 10, 1999	

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Sheet 8 of 10

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Application Number	10/918,509
Filing Date	August 16, 2004
First Named Inventor	EDAN, Mori
Group Art Unit	2186
Examiner Name	Not yet known
Attorney Docket Number	P-6412-US

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CN	155	6,108,240		Lavi et al.	Aug. 22, 2000	
CN	156	4,342,102		Puar	Jul. 27, 1982	
CN	157	5,867,429		Chen et al.	Feb. 2, 1999	
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CN	160	5,748,534		Dunlap et al.	May 5, 1998	
CN	161	2002/0004878		Norman	Jan. 10, 2002	
CN	162	5,715,193		Norman	Feb. 3, 1998	
CN	163	6,256,231		Lavi et al.	Jul. 3, 2001	
CN	164	2004/0027858		Takahashi et al.	Feb. 12, 2004	
CN	165	2003/0206435		Takahashi	Nov. 6, 2003	
CN	166	5,781,476		Seki et al	Jul. 14, 1998	
CN	167	6,339,556		Watanabe	Jan. 15, 2002	
CN	168	6,282,145		Tran et al.	Aug. 28, 2001	
CN	169	5,412,601		Sawada et al.	May 2, 1995	
CN	170	2003/0131186		Buhr	Jul. 10, 2003	
CN	171	2002/0004921		Muranaka et al.	Jan. 10, 2002	
CN	172	2003/0155659		Verma et al.	Aug. 21, 2003	
CN	173	6,000,006		Bruce et al.	Dec. 7, 1999	
CN	174	5,696,929		Hasbun et al.	Dec. 9, 1997	

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Sheet 9 of 10

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Application Number	10/918,509
Filing Date	August 16, 2004
First Named Inventor	EDAN, Mori
Group Art Unit	2186
Examiner Name	Not yet known
Attorney Docket Number	P-6412-US

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CN	175	2002/0199065		Subramoney et al.	Dec. 26, 2002	
CN	176	6,374,337		Estakhri	Apr. 16, 2002	
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Examiner Signature	/Camvan Nguyen/	Date Considered	08/08/2006

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[1] Unique citation designation number. [2] See attached Kinds of U.S. Patent Documents. [3] Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). [4] For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. [5] Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. [6] Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Please type a plus sign (+) inside this box → +

PTO/SB/08A (10-96)
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Substitute for form 1449B/PTO				Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT				Application Number	10/918,509
				Filing Date	August 16, 2004
				First Named Inventor	EDAN, Mori
				Group Art Unit	2186
(use as many sheets as necessary)				Examiner Name	Not yet known
Sheet	10	of	10	Attorney Docket Number	P-6412-US

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (where appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T[2]
CN	184	Chang et al., "Nonvolatile Semiconductor Memory Devices", Proceedings of the IEEE, Jul., 1976, pp. 1039-1059, Vol. 64, No. 7	☐
CN	✓ 185	Ricco et al., "Nonvolatile Multilevel Memories for Digital Applications", Proceedings of the IEEE, Dec., 1998, pp. 2399-2421, Vol. 86, No. 12, Institute of Electrical and Electronics Engineers, Inc.	☐
CN	✓ 186	Umezawa, et al., "A 5-V-Only Operation 0.6-μm Flash EEPROM with Row Decoder Scheme in Triple-Well Structure", IEEE Journal of Solid-State Circuits, 1992, pp. 1540, Vol. 27	☐
CN	✓ 187	Mitchell, et al., "A New Self-Aligned Planar Array Cell for Ultra High Density EPROMS", 1987	☐
CN	✓ 188	Esquivel, et al., "High Density Contactless, Self Aligned EPROM Cell Array Technology", 1986	☐
CN	✓ 189	Johns, Martin, "Analog Integrated Circuit Design", June 97, Chapter 10,	☐
CN	190	Allen, et al., "CMOS Analog Circuit Design", 2002, pp. 259	☐

Examiner Signature	/Camvan Nguyen/	Date Considered	08/08/2006

* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

[1] Unique citation designation number. [2] Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/918,509	08/16/2004	Mori Edan	P-6412-US	4480

27130 7590 03/22/2007
EITAN, PEARL, LATZER & COHEN ZEDEK LLP
10 ROCKEFELLER PLAZA, SUITE 1001
NEW YORK, NY 10020

EXAMINER
THAMMAVONG, PRASITH

ART UNIT	PAPER NUMBER
2187	

MAIL DATE	DELIVERY MODE
03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment	Application No.	Applicant(s)	
	10/918,509	EDAN ET AL.	
	Examiner	Art Unit	
	Prasith Thammavong	2187	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on 28 August 2006.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☒ The reason(s) below:

The Examiner tried to contact the attorney, Vladimir Sherman, at 703-486-1150 on 3/13/07 and 3/15/07 and gave a deadline of 3/16/07 to return the phone call. Otherwise, the Examiner would send out the office action. Left a third message with Sabrina Kelly, trying to contact him on 3/19/07.

DONALD SPARKS
SUPERVISORY PATENT EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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Eitan Law Group
C/O LandonIP, Inc.
Suite 450
1700 Diagonal Road
Alexandria, VA 22314

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OFFICE OF PETITIONS

In re Application of Edan et al. :
Application No. 10/918,509 : Decision on Petition
Filing Date: August 16, 2004 :
Attorney Docket No. P-6412-US :

This is a decision on the petition under 37 CFR 1.137(b), filed November 29, 2007, to revive the above-identified application.

The petition is **granted**.

A non-final Office action was mailed to the address of record on August 28, 2006. The Office action set a three (3) month shortened statutory period for reply.

The Office did not receive a reply to the Office action. As a result, the application became abandoned as of midnight on November 28, 2006.

A Notice of Abandonment was mailed to the address of record on March 22, 2007.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $1,540. Petitioner has submitted a reply to the non-final Office action in the form of an amendment filed with the petition. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2187 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Notice of Acceptance of Power of Attorney

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/918,509	08/16/2004	Mori Edan	P-6412-US

CONFIRMATION NO. 4480

POA ACCEPTANCE LETTER

OC000000028772623

EITAN LAW GROUP
C/O LANDONIP, INC.
SUITE 450
1700 DIAGONAL ROAD
ALEXANDRIA, VA 22314

Date Mailed: 03/11/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/01/2005.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/scbrantley/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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February 20, 2007

Patent No. : 7,060,598 B2
Ser. No. : 10/918,515
Inventor(s) : Fujio Masuoka, et al.
Issued : June 13, 2006
Title : **METHOD FOR IMPLANTING IONS INTO SEMICONDUCTOR SUBSTRATE**
Docket No. : **259052005700**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Antonio Johnson
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 111 or (703) 308-8309

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Patent No. 7,060,598

Issue Date: June 13, 2006

Application No. 10/918,515

Filed: August 12, 2004

Attorney Docket No. **259052005700**

ON PETITION

This is a decision on the "Request to Correct Assignee's Name" filed March 7, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add an assignee to the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

The "Change of Correspondence Address" filed March 7, 2007, is noted and made of record.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

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MCDERMOTT, WILL & EMERY LLP
227 WEST MONROE STREET
CHICAGO, IL 60606-5096

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OFFICE OF PETITIONS

In re Application of
Nowacki, Peterson, Mears, Erickson, Comes, Kaufman, and Asselstine
Application No. 10/918,558
Filed: August 13, 2004
Attorney Docket No. 37355-271
For: METHOD AND SYSTEM FOR ELECTRONIC ARCHIVAL AND RETRIEVAL OF ELECTRONIC COMMUNICATIONS

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed January 24, 2005 (certificate of mailing dated January 18, 2005.)

The petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on August 13, 2004, without a proper oath or declaration. On October 18, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed requiring a properly executed declaration, surcharge, and additional claim fees. The notice allowed a period for response of two months from its mailing date. On January 24, 2005, the instant petition was filed along with a request for an extension of time within the first month. The additional claim fees and surcharge were also remitted.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks items (1) and (4) as set forth above.

As to item (1), the statement of the alleged unavailability of the non-signing inventor is not sufficient because it does not demonstrate a level of diligence that is comprehensive, yet reasonable. It appears that petitioner only sought the non-signing inventor at this last known place of employment. There is no indication that petitioner attempted to find a residential address for the non-signing inventor. Further to this point, Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent, part that:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. **Copies of documentary evidence such as Internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement.** The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

In this case, a sufficient showing of diligence might include searches of the Internet for the non-signing inventor and of the national registry. Any renewed petition under 37 CFR 1.47(a) filed must be accompanied by a statement establishing that a diligent effort was made to locate inventor Erickson and appropriate documentation corroborating said efforts.

As to item (4), petitioner must provide what is most reasonably a last known address for the non-signing inventor so that the Patent and Trademark Office can attempt to provide the non-signing inventor with the notice required by 37 CFR 1.47(c). Any renewed petition must include a probable last known address for the non-signing inventor which petitioner has obtained after a diligent effort pursuant to Section 409.03(d) of the MPEP cited above.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Nowacki, Peterson, Mears, Erickson, Comes, Kaufman, and Asselstine
Application No. 10/918,558
Filed: August 13, 2004
Attorney Docket No. 37355-271
For: METHOD AND SYSTEM FOR ELECTRONIC ARCHIVAL AND RETRIEVAL OF ELECTRONIC COMMUNICATIONS

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a) filed June 20, 2005 (certificate of mailing dated June 16, 2005.)

The petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on August 13, 2004, without a proper oath or declaration. On October 18, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed requiring a properly executed declaration, surcharge, and additional claim fees. The notice allowed a period for response of two months from its mailing date. On January 24, 2005, a petition under 37 CFR 1.47(a) was filed along with a request for an extension of time within the first month. The additional claim fees and surcharge were also remitted. The petition was dismissed by a decision mailed February 16, 2005. The instant renewed petition was filed on June 20, 2005, with a request for an extension of time within the second month.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (2) set forth above.

As to item (2), the declaration filed January 21, 2005, is not proper because it does not provide an address or citizenship for inventor Erickson. Further to this point, 37 CFR 1.63(a)(3) provides that "[a] n oath or declaration filed under § 1.51(b)(2) as part of a nonprovisional application must identify the country of citizenship of each inventor." It is further noted that 37 CFR 1.63(c)(1) indicates that, "[u]nless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify the mailing address, and residence if an inventor lives at a allocation which is different from where the inventor customarily received mail, of each inventor." The declarations filed do not provide a mailing address for inventor Erickson, nor do they indicate his citizenship. Any renewed petition filed must provide this information.

Petitioner is advised that there is no need to file all of the petition documents and exhibits again. Please only file a proper declaration with a coversheet designating the correspondence as a renewed petition under 37 CFR 1.47(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MCDERMOTT, WILL & EMERY LLP
227 WEST MONROE STREET
CHICAGO, IL 60606-5096

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OFFICE OF PETITIONS

In re Application of
Nowacki, Peterson, Mears, Erickson, Comes, Kaufman, and Asselstine
Application No. 10/918,558
Filed: August 13, 2004
Attorney Docket No. 37355-271
For: METHOD AND SYSTEM FOR ELECTRONIC ARCHIVAL AND RETRIEVAL OF ELECTRONIC COMMUNICATIONS

: DECISION ACCORDING
: STATUS UNDER 37 CFR 1.47(a)

This is in response to the second renewed petition under 37 CFR 1.47(a), filed November 28, 2005.

The second renewed petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-identified application was filed on August 13, 2004, without a proper oath or declaration. On October 18, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed requiring a properly executed declaration, surcharge, and additional claim fees. The notice allowed a period for response of two months from its mailing date. On January 24, 2005, a petition under 37 CFR 1.47(a) was filed along with a request for an extension of time within the first month. The additional claim fees and surcharge were also remitted. The petition was dismissed by a decision mailed February 16, 2005. A renewed petition was filed on June 20, 2005, with a request for an extension of time within the second month, the renewed petition was dismissed by a decision mailed September 26, 2005.

Petitioner has shown that inventor Erickson cannot be located after a diligent effort. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Jason A. Erickson
6400 Ohio Drive, Apt. 626
Plano, TX 75024

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OFFICE OF PETITIONS

In re Application of
Nowacki, Peterson, Mears, Erickson, Comes,
Kaufman, and Asselstine
Application No. 10/918,558
Filed: August 13, 2004
Attorney Docket No. 37355-271
For: METHOD AND SYSTEM FOR ELECTRONIC ARCHIVAL AND RETRIEVAL OF ELECTRONIC COMMUNICATIONS

: LETTER

Dear Mr. Erickson:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

MCDERMOTT, WILL & EMERY LLP
227 WEST MONROE STREET
CHICAGO, IL 60606-5096

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Paper No.

Macrovision
Patent Department
2830 De La Cruz Blvd
Santa Clara CA 95050

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OFFICE OF PETITIONS

In re Application of :
Baruch Sollish : DECISION ON PETITION
Application No. 10/918,559 :
Filed: August 13, 2004 :
Attorney Docket No. T4 CONT :

This is a decision on the PETITION UNDER 37 C.F.R. §1.137(a) TO REVIVE UNAVOIDABLY ABANDONED APPLICATION, filed September 7, 2006, in the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed June 17, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No proper reply having been received and no extensions of time obtained, the application became abandoned effective September 18, 2005. A Notice of Abandonment was mailed on May 31, 2006.

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable. Petitioner asserts the abandonment was unavoidable because there was an error in the mailing of the Office action mailed June 17, 2005.

35 U.S.C. 133 provides that the Director may revive an application if the delay in replying to the outstanding Office action is shown to the satisfaction of the Director to have been

unavoidable. A grantable petition to revive an unavoidably abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to §1.137(d).

The petition includes the required reply in the form of a terminal disclaimer to obviate a double patenting rejection, payment of the petition fee and a showing of unavoidable delay. No terminal disclaimer pursuant to §1.137(d) for revival is required. The facts and circumstances of the abandonment as set forth on petition have been considered, and it is concluded that petitioner has met his burden of establishing that the entire delay from the due date for the reply until the filing of a grantable petition was unavoidable.

Technology Center AU 2138 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed September 18, 2006.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STONEMAN LAW OFFICES, LTD
3113 NORTH 3RD STREET
PHOENIX AZ 85012

In re Application of:	:	
Ted Burandt et al.	:	DECISION ON PETION TO
Serial No.: 10/918,571	:	MAKE SPECIAL
Filed: August 12, 2004	:	
Attorney Docket No.: P03933	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed November 26, 2004, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

A petition is grantable if it complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination. It must be accompanied by (a) a petition fee of $130.00, (b) a statement that all claims are directed a single invention and an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

The petition lacks item (b) above. To expedite the examining proceeding of this application, this decision is rendered based on the assumption that all claims presented in this application are directed to a single invention. However, should the examiner hold that the claims are not directed to a single invention, applicant is hereby required to make an oral election without traverse. Failure to make an oral election without traverse would result in the application file being returned to the Group Director's office for issuance of a decision vacating this decision and withdrawing the special status granted hereby.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 05/04/2010

Applicant	: Alan O'Neill	: DECISION ON REQUEST FOR
Patent Number	: 7610225	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/918,574	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **743** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT PACKARD COMPANY
P.O. BOX 272400
3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY
ADMINISTRATION
FORT COLLINS, CO 80527-2400

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OCT 1 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Mehmet Sayal et al.	:	
Application No. 10/918,587	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 200313590-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 1, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 2, 2007. A Notice of Abandonment was mailed on September 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $1,500.00, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2168 for appropriate action by the Examiner in the normal course of business on the reply received September 10, 2007.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Stephen Donovan
Allergen, Inc.
2525 Dupont Drive
Irvine, CA 92612

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JAN 28 2005
OFFICE OF PETITIONS

In re Application of	:	
Jane-Guo Shiah, et al.	:	
Application No. 10/918,597	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 17659CIP1 (OCU)	:	

This is in response to the petition under 37 CFR 1.47(a), filed November 10, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Lin Peng
400 Oyster Point Blvd.
Suite 505
South San Francisco, CA 94080

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JAN 28 2005
OFFICE OF PETITIONS

In re Application of
Jane-Guo Shiah; Rahul Bhagat; Thierry Nivaggioli; Lin Peng; David Chou; and David A. Weber
Application No. 10/918,597
Filed: August 13, 2004
For: OCULAR IMPLANT MADE BY A DOUBLE EXTRUSION PROCESS

Dear Lin Peng:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Marianne Jenkins at (571) 272-3223. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Stephen Donovan
Allergan, Inc.
2525 Dupont Drive
Irvine, CA 92612

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/21/2010

Applicant	: George Poszmik	: DECISION ON REQUEST FOR
Patent Number	: 7604678	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/918,604	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1352** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FELDMAN LAW GROUP, PC
12 EAST 41ST STREET
NEW YORK, NY 10017

MAILED

MAY 27 2010

OFFICE OF PETITIONS

In re Application of
Davy Lapa, et al.
Application No. 10/918,616
Filed: August 12, 2004
Attorney Docket No.: RJENK35.001C1

ON PETITION

This is a decision in response to the petition, filed February 22, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

It is noted that an amendment was included with the petition filed on February 22, 2010. However, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[3]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

[3] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/918,616	Applicant(s) LAPA ET AL.	
	Examiner NIKOLAI A. GISHNOCK	Art Unit 3715	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☒ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *15-30,32-39,45 and 46*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: The claims filed 1/25/2010 have changed in scope and require reconsideration of the applied art. Further, the limitation of claim 22, "facilitated by a reflector having a not flat surface," is likely New Matter as it conveys a negative limitation. See MPEP 2173.05(i). While there is nothing inherently ambiguous or uncertain about a negative limitation, such an exclusionary provisio must have basis in the original disclosure.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are entirely directed to the amendments which have not been entered and limitations which have not been claimed; consequently, the arguments are moot.

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/918618	08/12/04	Dave C. DeWaard	P315028

Hughes Law Firm, PLLC
Pacific Meridian Plaza, Suite 302
4164 Meridian Street
Bellington WA 98226-5583

EXAMINER	
Popovics, Robert J	
ART UNIT	PAPER NUMBER
1724	

DATE MAILED: 10/15/07

NOTICE OF RESCINDED ABANDONMENT

☐ **In response to your communication filed** 9/27/07

☒ **Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded.**

For Manager, Publications Division
Office of Patent Publication
571-272-4200

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CHRISTOPHER DEVRIES
General Motors Corporation
Legal Staff, Mail Code 482-C23-B21
P.O. Box 300
Detroit, MI 48265-3000

Mail Date: 04/21/2010

Applicant	: Mark H. Costin	: DECISION ON REQUEST FOR
Patent Number	: 7600161	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/918,621	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **638** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JAN 17 2007

OFFICE OF PETITIONS

DANTE C. ROHR, ESQUIRE
MATTIONI, LTD.
399 MARKET STREET, 2ND FLOOR
PHILADELPHIA PA 19106

In re Application of
Eugeniea M. Mattioni
Application No. 10/918,625
Filed: August 12, 2004
Attorney Docket No. 36642-20377

ON PETITION

This is a decision on the petition, filed August 10, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed June 23, 2006. A Notice of Abandonment was mailed on August 1, 2006. In response, on August 10, 2006, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

The application is being referred to the Office of Publications to oversee the review of the drawing filed August 10, 2006.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Courtney, Staniford & Gregory, LLP
P.O. Box 9686
San Jose, CA 95157

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MAY 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Yue Jun Jiang	:	
Application No. 10/918,644	:	DECISION ON PETITION
Filed: August 13, 2004	:	TO WITHDRAW
Attorney Docket No. RMWR.P015	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 24, 2006.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Barbara B. Courtney and all attorneys/agents of record have been revoked by the assignee of the patent application on June 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Arent Fox, LLP
1050 Connecticut Avenue, N.W.
Suite 400
Washington, DC 20036

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OFFICE OF PETITIONS

Courtney Staniford & Gregory LLP
P.O. Box 9686
San Jose, CA 95157

In re Application of	:	
JIANG	:	
Application No. 10/918,645	:	DECISION ON PETITION
Filed: August 13, 2004	:	TO WITHDRAW
Attorney Docket No. RMWR.P014	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 24, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "assignee instructions to transfer file" does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on June 30, 2006 does not include a proper chain of title. The Notice Regarding Change of Power of Attorney mailed August 30, 2006 is hereby **VACATED**.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **ARENT FOX PLLC**
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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SAN JOSE CA 95157

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MAR 03 2008

In re Application of	:	
JIANG, Yue Jun	:	
Application No. 10/918,645	:	DECISION ON REQUEST FOR
Filed: August 13, 2004	:	REVOCATION OF POWER
Attorney Docket No. **RMWR.P014**	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed June 20, 2006.

The request is **APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed November 15, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ARENT FOX PLLC**
1050 CONNECTICUT AVENUE NW, SUITE 400
WAHINGTON, DC 20036

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OFFICE OF PETITIONS

Ross J. Oehler
CEPHALON, Inc.
41 MOORES ROAD
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FRAZER PA 19355

In re Patent No. 7,576,206 :
Issued: August 18, 2009 :
Application No. 10/918,664 : PATENT TERM ADJUSTMENT
Filed: August 12, 2004 :
Dkt. No.: CP321 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed August 12, 2009. Patentee requests correction of the patent term adjustment from 428 days to 838 days. Patentee requests this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,576,206 on August 18, 2009. The patent issued with a patent term adjustment of 428 days. Patentee argues that in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008), the patent is entitled to an adjustment of 838 days (537 days pursuant to 35 USC 154(b)(1)(A) *plus* 410 days pursuant to 35 USC 154(b)(1)(B) *less* applicant delay of 109 days).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the request for continued examination (RCE) on September 26, 2008, the application was pending three years and 410 days after its filing date (August 13, 2007 to September 25, 2008). The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 537 days is correct. At issue is whether patentees should accrue 410 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 537 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 410 days of delay in issuing the patent overlaps with the 537 days of examination delay under 37 CFR 1.702(a). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in

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[1] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), August 12, 2004, and ending on September 25, 2008, the day before the date the RCE was filed on September 26, 2008.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 537 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the RCE. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 410 days of patent term adjustment accrued at the time of submission of the RCE for Office issuance of the patent more than three years after the application filing date.

The 410 days of patent term adjustment under 37 CFR 1.702(b) overlaps with the 537 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 410 days and the 537 days is neither permitted nor warranted given that 537 days is the actual number of days issuance of the patent was delayed at the time of submission of the RCE.

Accordingly, at issuance, the Office properly entered 428 days of patent term adjustment, having considered the 410 days of Office delay under the three-year pendency provision in conjunction with the 537 days of delay under 37 CFR 1.702(a)(1) reduced 109 days for applicant delay.

In view thereof, no adjustment to the patent term will be made.

No additional fees are due in connection with this matter.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Ross J. Oehler
CEPHALON, Inc.
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FRAZER, PA 19355

Mail Date: 04/21/2010

Applicant	: Raffaella Bernardini	: DECISION ON REQUEST FOR
Patent Number	: 7576206	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/918,664	: OF WYETH
Filed	: 08/12/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Patent No. 7,567,206	:
Bernadini et al.	: DECISION UPON REMAND AND
Issue Date: August 18, 2009	: RECONSIDERATION OF
Application No. 10/918,664	: PATENT TERM ADJUSTMENT
Filed: August 12, 2004	: AND NOTICE OF INTENT
Attorney Docket No. CP321	: TO ISSUE CERTIFICATE OF
Title: Proteasome inhibitors	: CORRECTION
and Methods of Using the Same	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by eight hundred thirty-eight (838) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred thirty-eight (838) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries

Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,576,206 B2

DATED : **August 18, 2009** **DRAFT**

INVENTOR(S) : Bernardini et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 428 days

Delete the phrase "by 428 days" and insert – by 838 days--

Day : Thursday
Date: 6/17/2010

PALM INTRANET

Time: 11:54:40

PTA Calculations for Application: 10/918664			
Application Filing Date:	08/12/2004	PTO Delay (PTO):	537
Issue Date of Patent:	08/18/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	109
Post-Issue Petitions:	0	Total PTA (days):	838
PTO Delay Adjustment:	410		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
98	06/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	410		
88.5	07/29/2009	PTA 36 MONTHS			
88	08/18/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
87	06/30/2009	EXPORT TO FINAL DATA CAPTURE			
86	06/29/2009	FINISHED INITIAL DATA CAPTURE			
85	06/29/2009	DISPATCH TO FDC			
84	05/22/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
83	05/21/2009	ISSUE FEE PAYMENT VERIFIED			
82	05/21/2009	ISSUE FEE PAYMENT RECEIVED			
81	04/21/2009	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
80	03/02/2009	EXPORT TO INITIAL DATA CAPTURE			
78	02/24/2009	MAIL NOTICE OF ALLOWANCE			
77	02/23/2009	ISSUE REVISION COMPLETED			
76	02/23/2009	DOCUMENT VERIFICATION			
75	02/23/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
74	02/23/2009	EXAMINER'S AMENDMENT COMMUNICATION			
73	02/23/2009	NOTICE OF ALLOWABILITY			
69	02/19/2009	DATE FORWARDED TO EXAMINER			
68	01/13/2009	RESPONSE AFTER NON-FINAL ACTION			
67	12/15/2008	MAIL NON-FINAL REJECTION			
66	12/10/2008	NON-FINAL REJECTION			
62	10/20/2008	DATE FORWARDED TO EXAMINER			
61	09/26/2008	AMENDMENT SUBMITTED/ENTERED WITH			

		FILING OF CPA/RCE			
60	10/20/2008	DATE FORWARDED TO EXAMINER			
59	09/26/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		87	50
58	10/20/2008	DISPOSAL FOR A RCE / CPA / R129			
57	09/26/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
56	09/26/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
55	07/28/2008	MAIL ADVISORY ACTION (PTOL - 303)			
54	07/25/2008	ADVISORY ACTION (PTOL-303)			
52	07/16/2008	DATE FORWARDED TO EXAMINER			
51	07/01/2008	AMENDMENT AFTER FINAL REJECTION			
50	04/01/2008	MAIL FINAL REJECTION (PTOL - 326)			
49	03/29/2008	FINAL REJECTION			
40	01/25/2008	DATE FORWARDED TO EXAMINER			
39	12/07/2007	RESPONSE AFTER NON-FINAL ACTION		22	36
38	12/07/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	08/15/2007	MAIL NON-FINAL REJECTION			
35	08/13/2007	NON-FINAL REJECTION			
32	03/21/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	04/18/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	06/06/2007	DATE FORWARDED TO EXAMINER			
29	05/31/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
28	05/31/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	04/02/2007	MAIL RESTRICTION REQUIREMENT	537		-1
26	03/29/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
25	11/03/2006	CORRESPONDENCE ADDRESS CHANGE			
24	11/03/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
23.7	04/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	04/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	06/30/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	06/30/2005	CASE DOCKETED TO EXAMINER IN GAU			

20	03/21/2005	REFERENCE CAPTURE ON IDS			
19	12/15/2004	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
18.7	03/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	03/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	01/27/2005	APPLICATION RETURN FROM OIPE			
16	01/27/2005	APPLICATION IS NOW COMPLETE			
15	01/27/2005	APPLICATION RETURN TO OIPE			
14	01/27/2005	APPLICATION RETURN FROM OIPE			
13	01/27/2005	APPLICATION RETURN TO OIPE			
12	01/26/2005	APPLICATION DISPATCHED FROM OIPE			
11	01/27/2005	APPLICATION IS NOW COMPLETE			
10	12/15/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
9	08/12/2004	CLAIM PRELIMINARY AMENDMENT			
7	12/15/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	09/29/2004	CLEARED BY L&R (LARS)			
4	09/24/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	09/24/2004	CASE CLASSIFIED BY OIPE			
2	09/07/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/12/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of	:	
Russell S. THORNTON et al.	:	
Application No. 10/918,665	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 5166.1 P	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 04, 2008 which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 05, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee of $810.00 and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of February 04, 2008 has been accepted as having been unintentionally delayed.

The changed of address filed with the petition by the attorney of record has been accepted and made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application is being referred to the Technology Center AU 2132 for appropriate action on the concurrently filed amendment.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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JUL 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Russell S. THORNTON et al.	:	
Application No. 10/918,667	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 5166.6 P	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed January 31, 2008 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 02, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election/amendment (2) the petition fee of $810.00 and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of January 31, 2008 has been accepted as having been unintentionally delayed.

The change of address filed by the attorney of record with the petition on May 12, 2009 has been accepted and made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application is being referred to the Technology Center AU 2132 for appropriate action on the concurrently filed election.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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BOISE ID 83716

In re Application of	:	
Hill	:	DECISION
Application No.: 10/918,695	:	
Filing Date: 13 August, 2004	:	
Attorney Docket No. 2002-0857.01US	:	

This is a decision on the petitions filed on 27 December, 2005, to revive under 37 C.F.R. §1.137(b) and 13 June, 2006, as a request to withdraw the holding of abandonment considered under 37 C.F.R. §1.181.

NOTE:

It appears that, since the filing of the original petition, Petitioner has not inquired as to the Status of the instant matter–Petitioner is reminded that the filing of such inquiries at a minimum of three- (3-) month intervals may provide a showing of diligence should the extended delay be questioned (for example, as required under 37 C.F.R. §1.181).

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**; and the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 25 May, 2005, with reply due under a non-extendable deadline on or before 25 August, 2005;

- the instant application went abandoned after midnight 25 August, 2005;

- the Office mailed the Notice of Abandonment on 26 May, 2006;

- on 27 December, 2005, Petitioner filed the petition to revive (with fee) alleging unintentional delay, indicated that the authorization to pay fees due in August 2005 was not effected due to insufficient funds in the deposit account in question, submitted the reply in the form of fees due, and made the statement of unintentional delay, and thereafter, on 13 June, 2006, Petitioner improvidently sought withdrawal of the holding of abandonment in that absolutely no support was provided in support thereof;

- out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension,

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

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modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a

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[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner has made absolutely no showing in support of this request.

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

Petitioner appears to have satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **dismissed**; however, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No: __

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COPY MAILED
AUG 27 2007
OFFICE OF PETITIONS

In re Application of	:	
Hill	:	DECISION
Application No.: 10/918,695	:	
Filing Date: 13 August, 2004	:	
Attorney Docket No. 2002-0857.01US	:	

This is a decision on the petitions filed on 12 July, 2006, to revive under 37 C.F.R. §1.137(b) and 13 June, 2006, as a request to withdraw the holding of abandonment considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**; and the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

BACKGROUND

The record reflects that:

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 25 May, 2005, with reply due under a non-extendable deadline on or before 25 August, 2005;

- the instant application went abandoned after midnight 25 August, 2005;

- the Office mailed the Notice of Abandonment on 26 May, 2006;

- on 27 December, 2005, Petitioner filed the petition to revive (with fee) alleging unintentional delay, indicated that the authorization to pay fees due in August 2005 was not effected due to insufficient funds in the deposit account in question, submitted the reply in the form of fees due, and made the statement of unintentional delay, and thereafter, on 13 June, 2006, Petitioner improvidently sought withdrawal of the holding of abandonment in that absolutely no support was provided in support thereof–as a result, the petition as considered under 37 C.F.R. §1.181 was dismissed and the petition under er 37 C.F.R. §1.137(b) was granted on 13 June, 2006;

- notwithstanding this action, Petitioner appears improvidently to have reasserted both petitions (i.e., under er 37 C.F.R. §1.181 and under 37 C.F.R. §1.137(b) on 12 July, 2006.

In fact, the instant matter issued as Patent No. 7,101,814 on 5 September, 2006.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

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false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

The commentary at MPEP §711.03(c) provides:

> * * *
>
> **B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed**
>
> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §

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[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

This matter appears moot.

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

This matter appears moot as well.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **dismissed as moot**; and the petition under 37 C.F.R. §1.137(b) is **dismissed as moot**; no fees were due and none were charged.

The instant application is returned to Image File Wrapper.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[10] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 28 2005

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Washington, DC 20036

In re application of William C. Erbey et al. Application No. 10/918,699 Filed: August 16, 2004 For: METHODS AND SYSTEMS FOR PROVIDING CUSTOMER RELATIONS INFORMATION	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on June 10, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/pav: 06/24/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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ASHBURN, VA 20147

MAILED

FEB 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Mutsumi Kitamura, et al.	:	
Application No. 10/918,705	:	DECISION GRANTING PETITION
Filed: August 16, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. FUJI-0319	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 18, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 24, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2811 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Daniel P. McCarthy
Parsons Behle & Latimer
201 South Main Street, Suite 1800
P. O. Box 45898
Salt Lake City UT 84111

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OFFICE OF PETITIONS

In re Application of	:	
Thornton et al.	:	
Application No. 10/918,707	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 5166.5 P	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 16, 2008 and supplemented on June 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a Restriction Requirement mailed October 30, 2007. The Office Action set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on December 1, 2007. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the restriction requirement, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being referred to Technology Center AU 2139 for appropriate action by the Examiner in the normal course of business on the reply received

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272.-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

Cc: Daniel McCarthy
2053 Pintree Village
Brighton, Utah 84121

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EVERETT D. ROBINSON
Echelon IP, LLC
P.O. Box 1047
American Fork UT 84003-1047

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SEP 01 2009

OFFICE OF PETITIONS

In re Application of :
THORNTON et al. : DECISION ON PETITION
Application No. 10/918,710 :
Filed: 08/13/2004 :
Attorney Docket No. 5166.16 P :

This is a decision on the petition under 37 CFR 1.137(b), filed March 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper response to the nonfinal Office action mailed September 24, 2007, which set a three-month shortened statutory period to reply. The above-identified application became abandoned on December 25, 2007. A Notice of Abandonment was mailed April 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply, (2) the petition fee, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2139 for appropriate action by the Examiner in the normal course of business on the reply received on March 26, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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P.O. Box 1450
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SLATER & MATSIL, L.L.P.
17950 PRESTON RD, SUITE 1000
DALLAS TX 75252-5793

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OFFICE OF PETITIONS

In re Application of
Crandell, Shell & Heathcock
Application No. 10/918,715
Filed: August 13, 2004
Attorney Docket No. SCI-001
For: METHOD AND APPARATUS FOR INTEGRATED TELEPHONE AND INTERNET SERVICES

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed November 8, 2004 (certificate of mailing date November 4, 2004).

The petition is granted.

Petitioners have shown that the non-signing inventor, O. Wayne Heathcock, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Attorney Roger C. Knapp establishes that the inventor was successfully mailed the application papers, including the specification, claims and drawings, but failed to respond to requests that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center G.A.U. 2642 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Roger C. Knapp, Esq.
SLATER & MATSIL, LLP
17950 Preston Rd. Suite 1000
Dallas, TX 75252

(for assignee)

MAILED

FEB 02 2007

CENTRAL REEXAMINATION UNIT

Applicant: Crandell et al.
Appl. No.: 10/918,715
Filing Date: August 13, 2004
U.S. Patent Application Publication No.: US 2005/0047571 A1
Pub. Date: March 3, 2005
Title: METHOD AND APPARATUS FOR INTEGRATED TELEPHONE AND INTERNET SERVICES
Attorney Docket No.: SCI-001

This is in response to the "Petition to Prevent Access by Inventor Under MPEP § 106" which was received on October 14, 2005, for the above-identified application.

The petition is before the Office of Patent Legal Administration for decision.

The petition is **DISMISSED as moot.**

DECISION

MPEP § 106 states:

The assignee of record of the entire interest in an application may intervene in the prosecution of the application, appointing an attorney or agent of his or her own choice. See 37 CFR 3.71. Such intervention, however, does not exclude the applicant from access to the application to see that it is being prosecuted properly, unless the assignee makes specific request to that effect. Any request to prevent the inventor from obtaining access to the file should be filed as a separate paper, 37 CFR 1.4(c), and should be directed to the Office of Petitions. If the request is granted, the inventor will be informed that he or she will only be permitted to inspect the application on sufficient showing why such inspection is necessary to conserve his or her rights, *In re The Kellogg Switchboard & Supply Company,* 1906 C.D. 274 (Comm'r Pat. 1906). *Of course, after the application has published pursuant to 35 U.S.C. 122(b), the application will be available to the public and any restriction on the inventor to access his or her application previously granted will no longer be in effect.*

Therefore, since the application has already published as U.S. Patent Application Publication No.: US 2005/0047571 A1, on March 3, 2005, the request is deemed moot.

CONCLUSION

1. The petition is **DISMISSED as moot.**

2. Any further communication as to the merits of the case should be directed to the examiner of record.

3. Inquiries relating to this matter may be directed to Joseph F. Weiss, Jr., Legal Advisor, at (571) 272-7759.

Hiram H. Bernstein
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

MAILED

FEB 19 2009

OFFICE OF PETITIONS

In re Application of :
Ivan Bjerre Damgaard et al :
Application No. 10/918,718 : ON PETITION
Filed: August 12, 2004 :
Attorney Docket No. 2804-004

This is a decision on the petition, filed February 18, 2009 which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 15, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2436 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of: SUZUKI
Application No. 10/918,719
Filed: August 13, 2004
For: STORAGE CONTROL SYSTEM AND STORAGE CONTROL METHOD

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER MPEP §708.02 (VIII)

This is a response to the petition filed 04 August 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

MPEP §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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SEP 02 2008

In re Application of	:	
Bullwinkle, et al.	:	DECISION GRANTING STATUS
Application No. 10/918,721	:	UNDER 37 CFR 1.47(a)
Filed: August 12, 2004	:	
Attorney Docket No. 03-782-A	:	

This is in response to the petition under 37 CFR 1.47(a), filed May 16, 2005.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Richard Bullwinkle
540 Loma Verde Avenue
Palo Alto, California 94306

In re Application of
Bullwinkle, et al.
Application No. 10/918,721
Filed: August 12, 2004
Attorney Docket No. 03-782-A

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SEP 02 2008

Dear Sir:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Alesia M. Brown
Petitions Attorney
Office of Petitions

cc: MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Adam Briggs
2250 Jerrold Avenue, #11
San Francisco, California 94124

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SEP 02 2008

In re Application of
Bullwinkle, et al.
Application No. 10/918,721
Filed: August 12, 2004
Attorney Docket No. 03-782-A

Dear Sir:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Alesia M. Brown
Petitions Attorney
Office of Petitions

cc: MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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FROM DIRECTORS OFFICE

NOV 17 2004

TECHNOLOGY CENTER 3600

BRINKS, HOFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re application of
Lawrence M. Nyquist
Application No. 10/918,726
Filed: August 13,2004
For: PNEUMATICALLY ACTUATED CHUTE DOOR AND SYSTEM EMPLOYING THE SAME

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on August 13, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed declaration indicating Mr. Nyquist is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 10/25/04

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The Webb Law Firm, P.C.
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

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OFFICE OF PETITIONS

In re Application of	:	
Anna E. Lokshin et al.	:	
Application No. 10/918,727	:	DECISION ON PETITION
Filed: August 13, 2004	:	TO WITHDRAW
Attorney Docket No. 4550-050816	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 25, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the firm of The Webb Law Firm, P.C., has been revoked by the assignee of the patent application on February 29, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

There are no outstanding Office actions at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Barbara E. Johnson, Esq.
555 Grant Street, Suite 323
Pittsburgh, PA 15219

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/918,727	08/13/2004	Anna E. Lokshin	4550-050816

CONFIRMATION NO. 4928

POWER OF ATTORNEY NOTICE

28289
THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

OC000000028753293

Date Mailed: 03/12/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/29/2008.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/sibrahim/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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JJGJr: 02-05

Paper No: __

SCHWEGMAN, LUNDBERG,
WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Seltzer, et al.	:	
Application No. 10/918,737	:	DECISION ON PETITION
Filed: 16 August, 2004	:	
Attorney Docket No.: 1941.006US2	:	

This is a decision on the petition filed on 27 December, 2004 under 37 C.F.R. §1.47(a).

The petition is **DISMISSED**.

NOTES:

(1) Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.47(a)."

(2) There will be no further reconsideration thereafter.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received and given a filing date of 16 August, 2004, without, *inter alia*, a fully executed oath/declaration;

- the Office mailed a Notice of Missing Parts on 19 October, 2004;
- Petitioner Katherine A. Jackson Huebsch (Reg. No. 47,670) has filed, *inter alia*, a copy of an oath/declaration signed by name co-inventor Greeson, but without the signature of non-signing inventor Alfred T. Sapse, M.D. (Dr. Sapse), has stated a "last known address" for him, and has made a statement that he has tried to reach Dr. Sapse, however, the transmittal letters placed in evidence by Petitioner and alleged to have been sent to Dr. Sapse clearly indicate that only an oath/declaration, and not a copy of the entire application (description, claims, drawings) were mailed to the non-signing inventor Dr. Sapse in an effort to contact him and have him execute the oath/declaration.

ANALYSIS

The commentary at MPEP §409.03(d) states:

* * *

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted

that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the

> circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted (a reasonable effort must be made to ascertain a current or last known address)–but also the petition (with fee) must state over the signature and registration number of the Petitioner the last known address (and, if appropriate, evidence of the due diligence effort ascertaining same).

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1]

---

[1] See: MPEP 409.03(b).

CONCLUSION

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents[2]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJr: 08-05

Paper No: __

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AUG 0 5 2005

OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG,
WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of	:	
Sapse, et al.	:	
Application No. 10/918,737	:	DECISION ON PETITION
Filed: 16 August, 2004	:	
Attorney Docket No.: 1941.006US2	:	

This is a decision on the renewed petition filed on 13 June, 2005, under 37 C.F.R. §1.47(a).

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received and given a filing date of 16 August, 2004, without, *inter alia*, a fully executed oath/declaration;

- the Office mailed a Notice of Missing Parts on 19 October, 2004;

- ON 27 December, 2004, Petitioner Katherine A. Jackson Huebsch (Reg. No. 47,670) filed, *inter alia*, a copy of an oath/declaration signed by name co-inventor Greeson, but without the signature of non-signing inventor Alfred T. Sapse, M.D. (Dr. Sapse), stated a "last known address" for him, and has made a statement that he has tried to reach Dr. Sapse, however, the transmittal letters placed in evidence by Petitioner and alleged to have been sent to Dr. Sapse clearly indicate that only an oath/declaration, and not a copy of the entire application (description, claims, drawings) were mailed to the non-signing

inventor Dr. Sapse in an effort to contact him and have him execute the oath/declaration, and for that reason the petition was dismissed on 11 February, 2005;

- the instant petition cures those deficiencies.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(b).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(b)**.

As provided under 37 C.F.R. §1.47(b), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Martin Haas	: DECISION ON REQUEST FOR
Patent Number	: 7569385	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/918,739	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **469** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 24 2010

OFFICE OF PETITIONS

STERNE KESSLER GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

In re Application of :
Arie Jeffrey Den Boef et al :
Application No. 10/918,742 : ON PETITION
Filed: August 16, 2004 :
Attorney Docket No. 1857.7930000

This is a decision on the petition, filed May 21, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 4, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SHUMAKER & SIEFFERT, P.A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL MN 55125

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JAN 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Yongwang Ding et al :
Application No. 10/918,745 :
Filed: August 13, 2004 :
Attorney Docket No. 1039-024US01 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PARSONS BEHLE & LATIMER
201 SOUTH MAIN STREET, SUITE 1800
P. O. BOX 45898
SALT LAKE CITY UT 84111

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Russell S. THORNTON et al.	:	
Application No. 10/918,755	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. **5166.8 P**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 6, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 07, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $810.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 6, 2008, is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 2432 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **EVERETT D. ROBINSON**
P.O. BOX 1047
AMERICAN FORK, UT 84003

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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EVERETT D. ROBONSON
ECHELON IP, LLC
P.O. BOX 1047
AMERICAN FORK UT 84003-1047

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In re Application of	:	
Russell S. Thornton et al	:	
Application No. 10/918,755	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 5166.8 P	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed May 14, 2009, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Thomas E. Erickson	: DECISION ON REQUEST FOR
Patent Number	: 7665605	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/918,756	: OF WYETH
Filed	: 08/14/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT COUNSEL
APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT
P.O. BOX 450A
SANTA CLARA, CA 95052

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APR 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Steven Verhaverbeke et al.	:	
Application No. 10/918,757	:	DECISION ON PETITION
Filed: August 12, 2004	:	
Attorney Docket No. 008905 /W-C/ W-C / JB1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 28, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 4, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 5, 2007. A Notice of Abandonment was mailed on August 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $1500, and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1763 for appropriate action by the Examiner in the normal course of business on the reply received September 28, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Blakely, Sokoloff, Taylor & Zafman
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

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INTERNATIONAL TRUCK INTELLECTUAL PROPERTY COMPANY,
4201 WINFIELD ROAD
P.O. BOX 1488
WARRENVILLE IL 60555

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OFFICE OF PETITIONS

In re Application of	:	
Patrick M. Delaney	:	
Application No. 10/918,782	:	ON PETITION
Filed: 13 August, 2004	:	
Attorney's Docket No. D5544	:	

This is a decision on the petition filed on 4 November, 2004, requesting that the above-identified application be accorded a filing date of 13 August, 2004, with Page 4 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 13 August, 2004.

Accordingly, on 18 October, 2004, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 13 August, 2004, but that Page 4 of the specification (description and claims) appeared to have been omitted.

In response, on 4 November, 2004, the present petition and a copy of Page 4 of the specification were filed. Petitioner argues that Page 4 of the specification was filed with the other application papers on 13 August, 2004, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 08/13/04, the above-identified application number, and identifies the application by the inventor's last name, attorney docket number, and invention title and acknowledges receipt of, *inter alia*, seven (7) pages of specification.

Petitioner requests that the application, including Page 4 of the specification, be accorded a filing date of 13 August, 2004.

A review of the record reveals that no Page 4 of the specification has been located among the application papers received on 13 August, 2004. However, the evidence is convincing that the application papers deposited on 13 August, 2004, included Page 4 of the specification, which was subsequently misplaced in the Office. Therefore, the application, including Page 4 of the specification, is entitled to a filing date of 13 August, 2004.

The "Notice" mailed on 18 October, 2004, is vacated.

In view of the above, the petition is granted. The petition fee of $130.00 will be credited to counsel's deposit account, No. 14-0603.

The application will be processed with the copy of Page 4 supplied on 4 November, 2004, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 13 August, 2004, using the application papers filed on that date, and the copy of Page 4 of the specification supplied with the present petition.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE WA 98111-1247

In re Application of	:	
Verbowski et al.	:	
Application No. 10/918,786	:	ON APPLICATION FOR
Filed: August 13, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 418268016US1	:	
Title: METHOD AND SYSTEM FOR	:	
TROUBLESHOOTING A	:	
MISCONFIGURATION OF A	:	
COMPUTER SYSTEM BASED ON	:	
CONFIGURATIONS OF OTHER	:	
COMPUTER SYSTEMS	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B)," filed January 30, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand, one hundred and seven (1107) days, not four hundred and sixty-two (462) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction partly on the basis that the Office will take in excess of three years to issue this patent.

In addition, applicants disclose that a period of reduction for applicant delay should be 130 days, not 81 days.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for

continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

To the extent that Applicants otherwise request review of the patent term adjustment, the request is **GRANTED** to the extent indicated herein.

The Office has updated the PALM screen to reflect that the correct amount of Applicant Delay is 100 days. The Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is 443 (543 days of Office delay less 100 days of Applicant delay). A copy of the updated PALM screen, showing the correct determination, is enclosed.

On December 30, 2008, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 462 days. On January 30, 2009, Applicants timely submitted the instant comment.[2] Applicants suggest that they believe that the patent term adjustment indicated in the Determination of Patent Term Adjustment is incorrect and should be recalculated. Applicants suggest that it appears that the PTA Calculations in PAIR incorrectly neglects to take into account one period of Applicant delay.

A review of the application history reveals that Applicants are partially correct.

37 C.F.R. § 1.704(b) sets forth, in pertinent part:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after

[2] PALM records show that the Issue Fee was received on January 30, 2009.

> the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

A notice to file missing parts was mailed on October 15, 2004, and a response was received on February 3, 2005, which is three months and 19 days after the mailing of the notice. As such, Applicants failed to engage in reasonable efforts to conclude prosecution of the application, and this delay totalled 19 days.[3, 4]

The Office failed to take into account this period of Applicant delay when calculating the Patent Term Adjustment. 19 days of Applicant delay will be entered.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is four hundred forty-three (443) days.
The Office thanks Applicants for their good faith and candor in bringing this to the attention of the Office.

---

[3] Applicants calculate this delay to constitute 49 days, and it appears that they believe the period of delay runs from December 15, 2004 until February 2, 2005. Both dates are incorrect. Regarding the former, the correct date to begin the calculation is January 15, 2005, which is three months after the mailing of the notice, despite the fact that the notice set a two-month period for response. See the terminal sentence of Rule 1.704(b), cited in-part above. Regarding the latter, although the response is dated February 2, 2005, the response was received on February 3, 2005. Moreover, *assuming arguendo* that the communication contains a certificate of mailing dated February 2, 2005, certificate of mailing practice is not taken into consideration when calculating the patent term adjustment. *Note* 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

[4] Applicants appear to be of the belief that this communication should be considered as having been filed with the Office on February 2, 2005, pursuant to Rule 1.10(a)(1). It is noted that the communication contains an Express Mail number. However, Applicants have not submitted a copy of an Express Mail label that contains both this Express Mail number and a "date-in" of February 2, 2005. It is noted in passing that a search of this tracking number on the website of the USPS resulted in an indication that "[t]here is no record of this item."

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

Enclosure: Copy of REVISED PALM Screen

PALM INTRANET

Day : Monday
Date: 8/3/2009
Time: 17:58:21

PTA Calculations for Application: 10/918786			
Application Filing Date:	08/13/2004	PTO Delay (PTO):	543
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	81
Post-Issue Petitions:	0	Total PTA (days):	443
PTO Delay Adjustment:	-19		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
59	08/03/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		19	
52	12/30/2008	MAIL NOTICE OF ALLOWANCE			
51	12/27/2008	ISSUE REVISION COMPLETED			
50	12/27/2008	DOCUMENT VERIFICATION			
49	12/27/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	12/22/2008	EXAMINER'S AMENDMENT COMMUNICATION			
47	12/22/2008	NOTICE OF ALLOWABILITY			
46	09/15/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
45	10/20/2008	DATE FORWARDED TO EXAMINER			
44	09/15/2008	RESPONSE AFTER NON-FINAL ACTION		47	42
43	09/15/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
42	04/30/2008	MAIL NON-FINAL REJECTION			
41	04/28/2008	NON-FINAL REJECTION			
40	10/12/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	02/11/2008	DATE FORWARDED TO EXAMINER			
38	01/22/2008	RESPONSE AFTER NON-FINAL ACTION		34	33
37	01/22/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	10/12/2007	REFERENCE CAPTURE ON IDS			
35	10/12/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
34	10/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	09/19/2007	MAIL NON-FINAL REJECTION			

32	09/17/2007	NON-FINAL REJECTION			
31	06/19/2007	DATE FORWARDED TO EXAMINER			
30	06/13/2007	RESPONSE AFTER NON-FINAL ACTION			
29	04/09/2007	MAIL NON-FINAL REJECTION	543		-1
28	04/06/2007	CORRESPONDENCE ADDRESS CHANGE			
27	04/02/2007	NON-FINAL REJECTION			
26	03/23/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	03/16/2007	CORRESPONDENCE ADDRESS CHANGE			
24	03/16/2007	CASE DOCKETED TO EXAMINER IN GAU			
23	01/23/2007	CASE DOCKETED TO EXAMINER IN GAU			
22	01/22/2007	TRANSFER INQUIRY TO GAU			
21	11/09/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	03/23/2006	REFERENCE CAPTURE ON IDS			
19.7	03/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	03/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	04/05/2005	CORRESPONDENCE ADDRESS CHANGE			
17	02/25/2005	TRANSFER INQUIRY TO GAU			
16	02/24/2005	APPLICATION RETURN FROM OIPE			
15	02/24/2005	APPLICATION RETURN TO OIPE			
14	02/24/2005	APPLICATION RETURN FROM OIPE			
13	02/24/2005	APPLICATION IS NOW COMPLETE			
12	02/03/2005	ADDITIONAL APPLICATION FILING FEES			
11	02/03/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
10	10/15/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
9	10/15/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
8	10/15/2004	APPLICATION RETURN TO OIPE			
7	10/15/2004	APPLICATION DISPATCHED FROM OIPE			
6	10/15/2004	APPLICATION IS NOW COMPLETE			
5	09/23/2004	CLEARED BY L&R (LARS)			
4	09/23/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	09/23/2004	CASE CLASSIFIED BY OIPE			
2	08/30/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	08/13/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Chad E. Verbowski	: DECISION ON REQUEST FOR
Patent Number	: 7584382	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/918,786	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1193** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CAROLYN MARGARET PRICE
111 BROAD STREET
SCOTTDALE PA 15683

COPY MAILED

JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of Price, Carolyn Margaret Application No. 10/918,789 Filed: August 16, 2004 Title: DIRECTION ASSISTANCE BY TELEPHONE	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.102(b), filed April 13, 2006, to make the above-identified application special.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(b) requires a request of immediate action from the head of some department of the Government due to the peculiar importance of the invention to some branch of the public service.

The instant petition includes a statement from Patricia A. Walker, Mayor of the Borough of Scottdale, Pennsylvania. The request for immediate action must be from the head of some department of the federal government, not a local government.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2617 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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MAIL

JAN 13 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Henry W. Cummings
13531 Sunset Ridge Lane
St. Louis MO 63138

In re Application of: Thomas A. ANCEL)
Application No. 10/918,799)
Filed: August 16, 2004)
For: **DOOR TRAFFIC AUTOMATION**)
)

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) AND MPEP § 708.02 (I): MANUFACTURE

This is a decision on the petition, filed November 22, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(I): Manufacture, to make the above-identified application special.

In compliance with M.P.E.P. § 708.02(I), the petition must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(I)(2) and a statement by the applicant, assignee or attorney/agent registered to practice before the Office alleging:

(A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted.

If the prospective manufacturer is an individual, there must be a corroborating affidavit from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;

(B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;

(C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition meets the requirements set out above. Accordingly, the petition is **GRANTED.**

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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Henry W. Cummings
3313 W. Adams Street
St. Charles, MO 63301

COPY MAILED
NOV 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Thomas A. Ancel	:	
Application No.: 10/918,799	:	DECISION ON
Filing or 371(c) Date: 08/16/2004	:	PETITION
Attorney Docket Number: TAA-100C	:	

This is a decision in response to the Petition Under 37 CFR 1.135 for Reversal of Holding of Abandonment for Failure to File Reply Within Statutory Period, filed August 7, 2006. The petition is properly treated under 37 CFR 1.181.

This Petition **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final office action, mailed May 24, 2006. The Office action set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on June 25, 2006. A Notice of Abandonment was mailed July 17, 2006.

Petition under 37 CFR 1.181

Applicant files the instant petition and asserts that the Office communication mailed May 24, 2006 was never received. a timely reply to the Office action was filed via facsimile on January 23, 2006. In support of this assertion, Applicant provides a copy of an Amendment which includes a Certificate of Transmission dated January 23, 2006, and executed by Julie A. Jager. No statement from Ms. Jager attesting to the transmission has been filed.

Analysis

A review of the Office communication reveals that the reply filed March 14, 2006, was a *bona fide* reply to a non-final Office action. In the May 24, 2006 Office communication, the Examiner set a new period for reply, including extensions of time under 37 CFR 1.136(a). As such, Applicant has until November 24, 2006, including extensions of time, to file a reply to the May 24, 2006 Office communication[1].

[1] If a new time period for reply is set pursuant to 37 CFR 1.135(c), applicant must supply the omission within this new time period for reply (or any extensions under 37 CFR 1.136(a) thereof) in order to avoid abandonment of the application. MPEP 714.02

Conclusion

The holding of abandonment was issued prematurely and is hereby withdrawn. Applicant must file a reply to the Office action including a five (5) month extension of time request and fee before the period for reply expires.

Applicant's request to withdraw the holding of abandonment based upon non-receipt of the Office communication

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, explains that

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

MPEP 711.03(c)

Analysis and conclusion

In this instance, Applicant provides evidence that his correspondence address changed from Henry W. Cummings, 3313 W. Adams Street, St. Charles, MO 63301, where mailed was delivered to Applicant's home office, to Henry W. Cummings, 3313 W. Adams Street, P.O. Box 297, St. Charles, MO 63302. As such, there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail.

Failure to file a reply to the Office communication within the maximum extendable period will result in the abandonment of the application. Applicant has failed to demonstrate that withdrawal of he holding of abandonment for failure to receive the Office communication would be warranted. Revival of the application would be required.

Finally, the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This application is being referred to Technology Center Art Unit 2612 to await Applicant's response to the Office communication.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: Henry W. Cummings
3313 W. Adams Street
P.O. Box 297
St. Charles, MO 63302

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/918,818	08/13/2004	2814	770	42.P15999D1	6	11	2

CONFIRMATION NO. 7443

CORRECTED FILING RECEIPT

OC000000020051808

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 08/16/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Cory E. Weber, Hillsboro, OR;
Mark Armstrong, Portland, OR;
Harold Kennel, Beaverton, OR;
Tahir Ghani, Portland, OR;
Paul A. Packan, Beaverton, OR;
Scott Thompson, Portland, OR;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 10/405,110 03/31/2003 PAT 6,800,887

Foreign Applications

If Required, Foreign Filing License Granted: 10/14/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/918,818

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Nitrogen controlled growth of dislocation loop in stress enhanced transistor

Preliminary Class

438

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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JAN 3 1 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON, KY 40507

In re Application of :
Paul Mostert et al. :
Application No. 10/918,821 :
Filed: August 13, 2004 :
For: METHODS AND COMPUTER-READABLE :
MEDIUM FOR NAVIGATING BETWEEN A :
PLURALITY OF DISCRETE IMAGES

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed November 26, 2004 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by Paul S. Mostert that he over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

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OFFICE OF PETITIONS

In re Application of
Richard A. Romer, et al.
Application No. 10/918,827
Filed: August 13, 2004
Attorney Docket No. 60,130-2143; 04ARM0175

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 6, 2007.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before September 18, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed June 18, 2007, which set a statutory period for reply of three (3) months. A Notice of Abandonment was mailed on October 24, 2007. On November 6, 2007, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Kerrie A. Laba appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts in accordance with 37 CFR 1.34(a).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,440 issue fee and the $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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10/918,833

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/006,787	10/14/2003	5983270	WEBSEN.033FRX	6735

20995 7590 04/18/2005

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED: 04/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Paper No.__

Russell M. Jeide
Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

(For Patent Owner)

In re Reissue Application of Dalen M. Abraham, et al. Application No. 10/918,833 Filed: August 12, 2004 For: U.S. Patent No. 5,983,270 In re Dalen M. Abraham, et al. Reexamination Proceeding Control No. 90/006,787 Filed: October 14, 2003 For: U.S. Patent No. 5,983,270	DECISION, *SUA SPONTE*, TO MERGE REISSUE AND REEXAMINATION PROCEEDINGS

The above reissue and reexamination proceedings are before the Office of Patent Legal Administration for *sua sponte* consideration of whether the proceedings should be merged under 37 CFR 1.565(d) at this time.

REVIEW OF FACTS

1. U.S. Patent No. 5,983,270 issued on November 9, 1999, with 72 claims.

2. A request for reexamination was filed by the patent owner on October 14, 2003, and was assigned control No. 90/006,787 (hereinafter, the '6787 proceeding).

3. Reexamination was ordered for the '6787 reexamination proceeding on December 16, 2003.

4. An application for reissue, assigned application No. 10/918,833, was filed by the patent owner on August 12, 2004.

5. A patent owner's statement under 37 CFR 1.530 was received on February 17, 2004, in the '6787 proceeding.

6. On April 15, 2004, a non-final Office action was mailed in the '6787 proceeding.

7. After obtaining an extension of time, the patent owner responded to the non-final Office action by filing an amendment on August 16, 2004.

8. Notice of the filing of the reissue application was published in the *Official Gazette* on October 5, 2004.

DISCUSSION REGARDING MERGER

Under 37 CFR 1.565(d):

> "If a reissue application and an *ex parte* reexamination proceeding on which an order pursuant to § 1.525 has been mailed are pending concurrently on a patent, a decision will normally be made to merge the two proceedings or to suspend one of the two proceedings."

As evidenced by the above review of facts, reissue application No. 10/918,833 and reexamination control No. 90/006,787 are currently pending. Since the order to reexamine has been mailed in the reexamination proceeding, a decision under 37 CFR 1.565(d) is timely.

The general policy of the Office is that a reissue application examination and a reexamination proceeding will not be conducted separately, at the same time, as to a particular patent. The reason for this policy is to prevent inconsistent, and possibly conflicting, amendments from being introduced into the two proceedings on behalf of the patent owner. Normally, the proceedings will be merged when it is desirable to do so in the interest of expediting the prosecution of both proceedings. In making a decision on whether or not to merge the two proceedings, consideration will be given to the status of each proceeding. See MPEP 2285.

In order to provide efficient and prompt handling of the reissue and reexamination proceedings and to prevent inconsistent, and possibly conflicting, amendments from being introduced on behalf of the patent owner, it is appropriate that the reissue and reexamination proceedings be merged and a joint examination be conducted. Accordingly, the examination of the reissue application and the reexamination proceeding <u>will be merged</u> in accordance with the decision set forth below.

It is to be noted, however, that the grant of merger of a reissue application and an *ex parte* reexamination proceeding under 37 CFR 1.565(d) **is discretionary**. *The present merger is not an assurance that, in a future similar situation, merger would be ordered.*

DECISION MERGING THE REISSUE AND REEXAMINATION PROCEEDINGS

I. Merger of Proceedings

The above-noted reissue and reexamination proceedings are hereby merged. A joint examination will be conducted in accordance with the following guidelines and requirements.

II. Requirement for Same Amendments in Both Proceedings

1. The patent owner is required to maintain identical amendments in the reissue application and the reexamination files for purposes of the merged proceeding. The maintenance of identical amendments in both files is required as long as the proceedings remain merged. See 37 CFR 1.565(d).

2. A review of the file for reexamination control No. 90/006,787 shows the presence of the following live claims: Original patent claims 1-72, new claims 73 and 80-87 which were added in the patent owner's statement of February 17, 2004, and new claims 88-98, which were added in the patent owner's amendment of August 16, 2004. [1] A review of reissue application No. 10/918,833 shows that original patent claims 1-72 are present. [2] **Accordingly, the claims are not identical in both proceedings.**

---

[1] Claims 75-79, which had been added in the patent owner's statement of February 17, 2004 have been cancelled in patent owner's amendment of August 16, 2004.

[2] It is noted that in the 10/918,833 reissue application declaration filed by the assignee on August 12, 2004, reference is made to new claims 73-97 which "have been added in the reissue application." However, no evidence of the presence of these claims is found in the 10/918,833 file, and in fact, applicant's reissue transmittal letter, filed August 12, 2004, indicates that the number of claims filed and paid for in the reissue application is the same as that in the patent, 72 claims.

An appropriate housekeeping amendment is required within <u>ONE (1) MONTH</u> of this decision placing the same amendments in both cases, specifically, Application No. 10/918,833 and Control Number 90/006,787. The response to this requirement must be limited to formally placing the same amendments in all cases, and patent owner must **not** address any issue of patentability in the housekeeping amendment. It is to be noted that, pursuant to MPEP 2285, amendments in a merged proceeding are submitted under 37 CFR 1.173, in accordance with reissue practice.

III. <u>Conduct of the Merged Reissue Application Examination and Reexamination Proceedings</u>

1. After the appropriate housekeeping amendment (see Part II above) is received, or after the time for same expires, the examiner should promptly prepare an Office action for the merged proceeding.

2. In the event that a housekeeping amendment is not timely submitted, any claim which does not contain identical text in both proceedings should be rejected under 35 U.S.C. 112, paragraph 2, as being indefinite as to the content of the claims, and thus failing to particularly point out the invention.

3. Because the statutory provisions for reissue application examination include, *inter alia*, provisions equivalent to 35 U.S.C. 305 relating to the conduct of *ex parte* reexamination proceedings, the merged examination will be conducted on the basis of the rules relating to the broader, reissue-application examination. The examiner will apply the <u>reissue</u> statute, rules, and case law to the merged proceeding. **However, periods for response should be set at TWO (2) months in order to comply with the statutory requirement for special dispatch in an *ex parte* reexamination proceeding (35 U.S.C. 305).**

4. Each Office action issued by the examiner will take the form of a *single action* which jointly applies to the reissue application and the reexamination proceeding. Each action will contain identifying data *for both of the cases*, i.e, the reissue application and the reexamination proceeding, and each action will be entered into both files (which will be maintained as separate files).

5. Any response by the applicant/patent owner must consist of a single response, with two copies being filed for entry in the two files, with each of the two bearing a signature.

6. Pursuant to MPEP 2285:

> "Amendments should be submitted in accordance with the reissue practice under ... 37 CFR 1.173; see MPEP § 1453."

Thus, the filing of any amendments to the drawings, specification, or claims must comply with the provisions of 37 CFR 1.173 and the guidelines of MPEP 1453. It is to be noted that 37 CFR 1.121 does not apply to amendments in a reissue application. Accordingly, clean copies of the amended claims, and presentation of all the claims in an amendment (e.g., original unamended claims), are not required, ***and are not to be submitted.*** Instead, pursuant to 37 CFR 1.173(b)(2), amendments are to be presented via markings pursuant to 37 CFR 1.173(d), except that a claim should be canceled by a statement canceling the claim, without presentation of the text of the claim.

Pursuant to 37 CFR 1.173(g), all amendments must be made relative to the patent specification, including the claims, and drawings, which are in effect as of the date of filing the reissue application. *Amendments are not to be made relative to previous amendments.* Thus, for all amendments, all words not appearing in the patent are always underlined, and only words being deleted from the patent appear in brackets. It is noted that the amendments in the reexamination proceeding that were presented in the patent owner's amendment of August 16, 2004, to claims 73, 80, 81, and 87 have not been entered, as they were not made relative to the patent claims which were in effect as of the date of filing the request for reexamination. 37 CFR 1.530(i).

7. Where a paper is filed which requires payment of a fee (e.g., petition fee, appeal fee, brief fee, oral hearing fee), only a single fee need be paid. For example, only one fee need be paid for patent owner's appeal brief, even though the brief relates to the merged multiple proceedings and even though copies must be filed (as pointed out above) for each file in the merged proceeding.

8. Upon return of the present merged proceeding to the examiner, the examiner (a) will review the files to insure that each file contains identical citations of prior patents and printed publications, and (b) will cite such documents as are necessary as part of the next Office action in order to place the files in that condition.

9. If the reissue application ultimately matures into a reissue patent, the reexamination proceedings shall be terminated by the grant of the reissued patent, and the reissued patent will serve as the certificate under 37 CFR 1.570. See MPEP 2285.

10. If the applicant/patent owner fails to file a timely and appropriate response to any Office action, the merged proceeding will be dissolved. The reissue application will be held abandoned. The reexamination prosecution will be terminated and a reexamination certificate under 37 CFR 1.570 will be issued in accordance with the last action of the Office, unless further action in the reexamination proceeding is needed as a result of the difference in the rules relating to reexamination and reissue proceedings. If further action in the reexamination proceeding is needed, any grounds of rejection which are not applicable under reexamination would be withdrawn (e.g., based on public use or sale), and any new grounds of rejection which are applicable under reexamination (e.g., improperly broadened claims) would be made by the examiner, upon dissolution of the merged proceeding. The existence of any questions/issues remaining which cannot be considered under reexamination following the dissolution would be noted by the examiner as not being proper under reexamination pursuant to 37 CFR 1.552(c).

11. If the applicant/patent owner files an express abandonment of the reissue application pursuant to 37 CFR 1.138, the next Office action of the examiner will accept the express abandonment, dissolve the merged proceeding, and continue examination as to the reexamination proceeding. Such examination would be conducted as set forth in the immediately preceding paragraph.

CONCLUSION

1. Reissue application No. 10/918,833 and reexamination control No. 90/006,787 **are merged** into a single proceeding.

2. Pursuant to Part II of this decision, a housekeeping amendment is required **within ONE MONTH of this decision**, placing the same amendments in all cases of the present merged proceeding.

3. The reissue and reexamination proceedings are being forwarded to the examiner via the Director of Technology Center 2100. Upon receipt of same, the examiner **should not issue an Office action for the present merged proceeding of the reissue and reexamination proceedings until after the earlier of** (a) the submission of the housekeeping amendment to place the same amendments in both cases or (b) the expiration of the ONE MONTH period from the mailing of this decision for filing the amendment.

4. All further examination in the merged proceeding should be conducted in accordance with Part III of this decision.

5. Telephone inquiries related to this decision should be directed to Elizabeth L. Dougherty, Senior Legal Advisor, at (571) 272-7733.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

April 18, 2005
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UNITED STATES PATENT AND TRADEMARK OFFICE

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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JUN 0 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Sriram et al.	:	
Application No. 10/918,839	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. TI-29047.1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2611 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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November 3, 2006

Patent No. : 7,098,750 B2
Ser. No. : 10/918844
Inventor(s) : Morkovich
Issued : August 29, 2006
Title : **WIDE FREQUENCY RANGE AGILE VOLTAGE CONTROLLED OSCILLATOR**
Docket No. : PSC-232V5

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322 and 1.323.

A petition under C.F.R. 1.182 is required to correct errors in spelling or order of inventors names or addresses, since inventor's names or addresses are printed solely in accordance with the type-written names and address and in the order of the type- written names and address on the Declaration, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct names and addresses in correct order be indicated on the Declaration of Oath, no correction is in order here under the provisions of Rules 1.323, unless a petition is granted.

In view of the foregoing, your request is hereby denied.

However, a petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By Fax: (703) 308-6916
Attn: Office of Petitions

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Elisha Evans
Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
703 308- 9390 EXT. 110

SILBER & FRIDMAN
1037 ROUTE 46 EAST
SUITE 207
CLIFTON NJ 07013

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DICKINSON WRIGHT, PLLC
1875 EYE STREET, NW
SUITE 1200
WASHINGTON DC 20006

MAILED

AUG 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Andreas Iselt et al	:	
Application No. 10/918,850	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 39090-56	:	

This is a decision on the petition, filed June 26, 2009, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The application was held abandoned for failure to timely reply to the final rejection mailed May 27, 2008.

The petition states that a reply was timely submitted on November 26, 2008. A review of the Office records indicate that a response in the form of a Notice of Appeal and a Request for Extension of time (3) months was indeed submitted on November 26, 2008.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2419 for consideration of the replies received on November 26, 2008 and on June 26, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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DICKINSON WRIGHT, PLLC
1875 EYE STREET, NW
SUITE 1200
WASHINGTON, DC 20006

MAILED

JUN 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Iselt et al.	:	DECISION ON PETITION
Application No. 10/918,850	:	TO WITHDRAW
Filed: August 13, 2004	:	FROM RECORD
Attorney Docket No. 2003P11400	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 27, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on June 18, 2010 the power of attorney to Dickinson Wright, PLLC was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

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Paper No.

STRATTON BALLEW
213 S 12TH AVE
YAKIMA WA 98902

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Albert Folsom	:	
Application No. 10/918,859	:	DECISION ON
Filed: August 16, 2004	:	PETITION
Title: ALMOND TREE NAMED	:	
FOLSOM	:	

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a) filed April 10, 2007.

The above-identified plant application became abandoned for failure to pay the Issue Fee (and Publication Fee) within three months of the mailing date, June 29, 2006, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on September 30, 2006. A courtesy Notice of Abandonment was mailed on November 8, 2006.

In response, applicants filed the instant petition, asserting that the Office made a typographical error in entering the Customer Number for their change of correspondence address and power of attorney filed April 14, 2006 and thus, the Notice of Allowance was mailed to an attorney who has no relationship to applicant or applicant's attorney.

A review of the application file confirms an irregularity in the mailing of the Notice of Allowance mailed June 29, 2006. A power of attorney and correspondence address was filed by the assignee. This paper was accompanied by a 3.73(b) statement. The record supports a conclusion that the Office made a

typographical error in entering the Customer Number associated with the power of attorney and change of correspondence address. This change of address was timely and properly filed prior to the mailing of the Notice of Allowance. Thus, it is concluded that due to Office error the Notice of Allowance was not mailed to the correct address. (This error has now been corrected). Under the circumstances, withdrawal of the holding of abandonment is warranted.

In view thereof, the notice of abandonment mailed November 8, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Applicants are reminded that a response must be made to any Notice of Allowance and Fees Due mailed or the application will become abandoned. The submission of an authorization to charge the Issue Fee on instant petition is not a sufficient response to avoid abandonment for failure to respond to any future Notice of Allowance.

Technology Center AU 1661 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the Notice of Allowance (and Notice of Allowability) mailed June 29, 2006 and for restarting of the period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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OCT 05 2007

OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
PO BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of	:	
Dong et al.	:	
Application No. 10/918,869	:	ON PETITION
Filed: 08/16/2004	:	
Attorney Docket No. TI-36761	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 23, 2007, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 31, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 1, 2006. A Notice of Abandonment was mailed on May 29, 2007.

In response to the final Office action, petitioner filed an amendment and a request for continued examination (RCE). The Examiner reviewed the amendment of May 23, 2007, and determined that the amendment does not place the application in condition for allowance. A copy of the Examiner's Advisory Action accompanies this decision. Nevertheless, petitioner filed a proper reply to the outstanding Office action in the form of a RCE (and fee) and a submission.

Accordingly, the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (and fee) and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

This application is being referred to Technology Center AU 2816 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/918,869	Applicant(s) DONG ET AL.	
	Examiner QUAN TRA	Art Unit 2816	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 1-28.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/QUAN TRA/
PRIMARY EXAMINER
Art Unit: 2816

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Wei Dong	: DECISION ON REQUEST FOR
Patent Number	: 7570100	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/918,869	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ALEXANDRIA, VA 22313-1450
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MAILED

FEB 24 2010

OFFICE OF PETITIONS

LICATA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON NJ 08053

In re Patent No. 7,432,064	:	DECISION ON REQUEST FOR
SALCEDA et al.	:	RECONSIDERATION OF
Issue Date: October 7, 2008	:	PATENT TERM ADJUSTMENT AND
Application No. 10/918,897	:	NOTICE OF INTENT TO ISSUE
Filed: August 16, 2004	:	CERTIFICATE OF CORRECTION
Attorney Docket No. DEX-0502	:	

This is a decision on the petition filed on December 3, 2008, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred ninety-eight (598) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent** that the term of the above-identified patent is extended or adjusted by five hundred ninety-nine (599) days.

The "B" delay period is 418 days, not 417 days as calculated by patentee. The period of adjustment under § 1.702(b) begins on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) and ends on the date the patent issued, but not including the sums of the periods under § 1.702(b)(1)-(4). See 37 CFR 1.703(b). Thus, counting begins on August 17, 2007, and ends on October 7, 2008.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

This matter is being referred to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred ninety-nine (599) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,432,064 B2

DATED : Oct. 7, 2008 **DRAFT**

INVENTOR(S) : Salceda et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 181 days

Delete the phrase "by 181 days" and insert – by 599 days--

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JOY SINGFIELD
P.O. BOX 79551
ATLANTA, GA 30357

MAILED

JUL 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Joy Shantia SINFIELD	:	
Application No. 10/918,898	:	ON PETITION
Filed: August 16, 2004	:	
Attorney Docket No. 1400-2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 26, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 21, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 22, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 2.

With respect to item 2: The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given until the required fee is remitted.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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CLISE, BILLION & CYR
605 US HWY 169 NORTH
SUITE 300
PLYMOUTH MN 55441

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NOV 0 6 2009

OFFICE OF PETITIONS

In re Application of	:	
Joy Shantia SINGFIELD	:	
Application No. 10/918,898	:	ON PETITION
Filed: August 16, 2004	:	
Attorney Docket No. 1124.001US1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 11, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 21, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the renewed petition on September 11, 2009, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 50-4850.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that

such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center 3696 for further processing in the normal course of business.

/Diane C. Goodwyn/
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

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AUG 09 2005

OFFICE OF PETITIONS

In re Application of
Kyriacos A. Mitrophanous et al.
Application No. 10/198,905
Filed: August 16, 2004
Attorney Docket No: 674523-2023.1

ON PETITION

This is a decision on the petition filed July 15, 2005, in response to the Notice To File Corrected Application Papers mailed May 13, 2005. The petition is treated under 37 CFR 1.53.

A Notice To File Corrected Application Papers mailed May 13, 2005 indicated that the application had been accorded a filing date of August 16, 2004 but that Pages 4 & 8 of the specification and Figure 3, as described in the specification, appeared to have been omitted.

Petitioner asserts that Pages 4 & 8 of the specification and Figure 3, as described in the specification were among the papers filed on August 16, 2004, and with the petition, submits, *inter alia*, a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, that the application included 49 pages of specification and 6 sheets of drawings and bears a United States Patent and Trademark Office date-stamp of August 16, 2004. However, only 47 pages of specification and 5 sheets of drawing figures is of record and while the postcard did not specifically itemize the number of Figures, it is obvious that Figure 3 was on sheet 3 of 6. Additionally, the postcard receipt lacks any notation of non-receipt of any item listed. In view thereof, the petition is **GRANTED.**

The "Notice" was improperly mailed and is withdrawn.

Given the basis for granting the petition, the petition fee in the amount of $400.00 will be credited to deposit account no. 50-0320.

This matter is being referred to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on August 16, 2004 and the two sheets of specification (pages 4 and 8) and Figure 3, submitted on petition July 15, 2005.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Copied from 10198905 on 08/30/2005

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745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of
Kyriacos A. Mitrophanous et al.
Application No. 10/918,905
Filed: August 16, 2004
Attorney Docket No: 674523-2023.1

ON PETITION

CORRECTED DECISION[1]

This is a decision on the petition filed July 15, 2005, in response to the Notice To File Corrected Application Papers mailed May 13, 2005. The petition is treated under 37 CFR 1.53.

A Notice To File Corrected Application Papers mailed May 13, 2005 indicated that the application had been accorded a filing date of August 16, 2004 but that Pages 4 & 8 of the specification and Figure 3, as described in the specification, appeared to have been omitted.

Petitioner asserts that Pages 4 & 8 of the specification and Figure 3, as described in the specification were among the papers filed on August 16, 2004, and with the petition, submits, *inter alia*, a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, that the application included 49 pages of specification and 6 sheets of drawings and bears a United States Patent and Trademark Office date-stamp of August 16, 2004. However, only 47 pages of specification and 5 sheets of drawing figures is of record and while the postcard did not specifically itemize the number of Figures, it is obvious that Figure 3 was on sheet 3 of 6. Additionally, the postcard receipt lacks any notation of non-receipt of any item listed. In view thereof, the petition is **GRANTED.**

The "Notice" was improperly mailed and is withdrawn.

Given the basis for granting the petition, the petition fee in the amount of $400.00 will be credited to deposit account no. 50-0320.

This matter is being referred to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on August 16, 2004 and the two sheets of specification (pages 4 and 8) and Figure 3, submitted on petition July 15, 2005.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1]This decision replaces the decision mailed August 9, 2005 as the application noted on the decision was incorrect.

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OFFICE OF PETITIONS

INTELLECTUAL PROPERTY / TECHNOLOGY LAW
PO BOX 14329
RESEARCH TRIANGLE PARK, NC 27709

In re Application of Lee et al.	:	
Application No. 10/918,909	:	Decision on Petition
Filing Date: August 16, 2004	:	
Attorney Docket No. 4240-111	:	

This is a decision on the petition under 37 CFR 1.181, filed December 27, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

A non-final Office action including a requirement for restriction/election was mailed March 1, 2006.

Due to Office error when mailing the Office action, the USPS returned the Office action undelivered. As a result, petitioner failed to receive the Office action.

A reply was not filed in response to the Office action and a Notice of Abandonment was mailed December 19, 2006.

Since the Office action was never received by petitioner, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 1654 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new copy of the non-final Office action. The time period for responding to the new Office action will be set to run from the mailing date of the new Office action.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JAN 31 2005

In re Application of	:	
MALONE.	:	
Serial Number: 10/918,916	:	PETITION UNDER
Filed: August 14, 2004	:	M.P.E.P.708.02 V
For: FIVE DEGREES FOR SEPARATION	:	

This is in response to the petition filed December 30, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 V of the MPEP and 37 CFR 1.102 (**no fee required**).

The request for Special Status considered under Section 708.02 V is granted because the criteria under 37 CFR 1.102 have been met.

Accordingly the petition is **GRANTED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Richard D. Stone
4153 Patterson Drive
New Orleans, LA 70131-1980

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MOORE, HANSEN & SUMNER, PLLP
225 SOUTH SIXTH ST
MINNEAPOLIS, MN 55402

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MAY 0 3 2005

OFFICE OF PETITIONS

In re Application of :
G. Leonard West :
Application No. 10/918,925 : DECISION GRANTING PETITION
Filed: August 16, 2004 :
Attorney Docket No. M67-002-01-U :

This is a decision on the petition filed February 16, 2005, requesting that the above-identified application be accorded a filing date of August 16, 2004, instead of the presently accorded date of August 17, 2004.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on August 16, 2004. In support, applicant provides, inter alia, a copy of the Express Mail label, No. EV 506977844 US. The same Express Mail receipt number appears on the original transmittal letter found in the file.

It is noted that the "date-in" entered on the present copy of the Express Mail mailing label is incomplete as it shows " Mo. 8 Day 16 Year. " However, the USPS Track/Confirm record clearly shows that the package bearing Express Mail label No. EV 506977844 US was accepted on August 16, 2004 at the USPS in Saint Paul, MN 55111 at 6:30pm.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the U.S. Postal Service on August 16, 2004.

The petition is GRANTED.

The application is being referred to Initial Patent Examination Division for correction of the filing date to **August 16, 2004**, and issuance of a Corrected Official Filing Receipt.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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AUG 0 6 2007

OFFICE OF PETITIONS

GEAM - CYCOLOY
IP LEGAL
ONE PLASTICS AVENUE
PITTSFIELD MA 01201-3697

In re Application of	:	
Luc Govaerts et al	:	
Application No. 10/918,934	:	ON PETITION
Filed: August 16, 2004	:	
Attorney Docket No. 155583-1	:	

This is a decision on the petition, filed August 3, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 9, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1712 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

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FEB 16 2006

OFFICE OF PETITIONS

In re Application of :
Toshiharu Furukawa, et al. :
Application No. 10/918,949 :
Filed: August 16, 2004 :
Attorney Docket No.: FIS920010325US2 :
(15095A)

ON PETITION

This is a decision on the petition, filed February 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 1, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2818 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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JAN 3 1 2005

In re Application of	:	
MALONE.	:	
Serial Number: 10/918,956	:	PETITION UNDER
Filed: August 16, 2004	:	M.P.E.P.708.02 V
For: SALT BATH REFINING	:	

This is in response to the petition filed December 30, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 V of the MPEP and 37 CFR 1.102 (**no fee required**).

The request for Special Status considered under Section 708.02 V is granted because the criteria under 37 CFR 1.102 have been met.

Accordingly the petition is **GRANTED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Richard D. Stone
4153 Patterson Drive
New Orleans, LA 70131-1980

CSC/NJG

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WASHINGTON, D.C. 20231
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Paper No. 7

Price, Heneveld, Cooper, DeWitt & Litton
695 Kenmoor, S.E.
P.O. Box 2567
Grand Rapids, MI 49501

Present App. Atty. Dkt. No. INF06 P-300A
Present App. Express Mail No. EV386835317US

In re Application of
Robert Keller, William Cretens, Kent Depuydt, Dana Trierweiler, Russell Johnson and Dean Wickoren
Application No.10/093,690
Filed: March 8, 2002
Attorney Docket No. INF06 P-300
Title of Invention: METHOD AND APPARATUS FOR REMEDIATING WASTWATER HOLDING AREAS AND THE LIKE

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

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SEP 24 2002

OFFICE OF PETITIONS

This is in response to the petition under 37 CFR 1.47(a), filed August 13, 2002.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor, Wickoren, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition indicates the application papers were sent to the inventor's last known address via certified mail. Petitioner submitted evidence that establishes the package was received. A declaration from joint inventor Trierweiler, states non-signing inventor Wickoren did not wish to be a party to this application. The non-signing inventor's failure to respond to the application mailings and non-signing inventor's statement he did not wish to be a party in this application sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

for R. Wood
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SEP 30 2002
PRICE, HENEVELD, COOPER
DEWITT & LITTON
PER CARL S. CLARK

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Dean R. Wickoren
17096 West 295th Street
Paola, Kansas 66971

COPY MAILED

SEP 2 4 2002

OFFICE OF PETITIONS

LETTER

In re Application of
Robert Keller, William Cretens, Kent Depuydt, Dana Trierweiler, Russell Johnson and Dean Wickoren
Application No.10/093,690
Filed: March 8, 2002
Attorney Docket No. INF06 P-300
Title of Invention: METHOD AND APPARATUS FOR REMEDIATING WASTWATER HOLDING AREAS AND THE LIKE

Dear Mr. Wickoren:

You Dean Wickoren are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Carl S. Clark
Price, Heneveld, Cooper, DeWitt & Litton
695 Kenmoor, S.E.
P.O. Box 2567
Grand Rapids, MI 49501

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MADAN, MOSSMAN & SRIRAM
2603 AUGUSTA
SUITE 700
HOUSTON TX 77057

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JUN 1 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Martin Blanz et al	:	
Application No. 10/918,965	:	ON PETITION
Filed: August 16, 2004	:	
Attorney Docket No. 414-39592-US	:	

This is a decision on the petition, filed June 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 28, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2859 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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MADAN, MOSSMAN & SRIRAM, P.C.
2603 AUGUSTA
SUITE 700
HOUSTON, TX 77057

In re Application of	:	
Blanz, et al.	:	
Application No. 10/918,965	:	DECISION ON PETITION
Filed: August 16, 2004	:	UNDER 37 CFR 1.78(a)(3)
Atty. Dkt. No. 414-39592-US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 21, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is GRANTED.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should

not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2859 for appropriate action on the amendment filed June 21, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Nancy Johnson for

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/918,965	08/16/2004	2859	1452	414-39592-US	13	34	2

CONFIRMATION NO. 5671

CORRECTED FILING RECEIPT

OC000000021184368

44871
MADAN, MOSSMAN & SRIRAM, P.C.
2603 AUGUSTA
SUITE 700
HOUSTON, TX 77057

Date Mailed: 11/09/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Martin Blanz, Celle, GERMANY;
Holger Thern, Hannover, GERMANY;
Thomas Kruspe, Wienhausen, GERMANY;

Assignment For Published Patent Application

Baker Hughes Incorporated

Power of Attorney: The patent practitioners associated with Customer Number **44871**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/828,812 04/21/2004
which is a CON of 09/928,768 08/13/2001 PAT 6,727,696

Foreign Applications

If Required, Foreign Filing License Granted: 10/12/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/918,965

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

CORRECTION OF NMR ARTIFACTS DUE TO CONSTANT-VELOCITY AXIAL MOTION AND SPIN-LATTICE RELAXATION

Preliminary Class

324

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier

license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Director's Office
Group 3700

Geoffrey A. Mantooth
Decker, Jones, McMackin, McClane, Hall & Bates
Burnett Plaza, Suite 2000
801 Cherry Street, Unit #46
Fort Worth, Texas 76102

In re application of Richard C. Schaffer	: : :	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)**
Serial Number: 10/918972 Filed: August 16, 2004	: :	

For: **TOILET WITH SELF-CONTAINED VENTILATION SYSTEM**

This is a decision on the petition filed on August 16, 2004, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(703) 308-0975

rt: 12/6/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : November 09,2007

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/919,027 Patent No.: 7239236 B1

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

NEWSOME

LAMONTE

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

2612

PTOL-306 (REV. 7/03)

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ST LOUIS MO 63102

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Liu et al. :
Application No. 10/919,028 :
Filed: 16 August, 2004 :
Atty Docket No. MTC 6887.1; 39-21 (53124) :

This is a decision on the petition under 37 CFR 1.182, filed on 20 October, 2005, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Fuchen Liu
2. Juan Arhancent
3. James P. Coleman
4. Martin P. McGrath

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This application is being referred to Technology Center Art Unit 1621 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

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AUG 24 2005

In re Application of	:	
Evelio Acosta	:	
Serial No. 10/919,043	:	DECISION ON PETITION
Filed: August 16, 2004	:	TO MAKE SPECIAL
For: WASTE CONTAINER WITH A	:	
ROUNDED BOTTOM AND IMPROVED	:	
DOOR LATCH SYSTEM	:	

Applicant's petition, filed January 13, 2005, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Feldman Gale, PA
Miami Center, 19th Floor
201 South Biscayne Blvd.
Miami, FL 33131

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FELDMANGALE, P.A.
MIAMI CENTER, 19TH FLOOR
201 SOUTH BISCAYNE BOULEVARD
MIAMI, FL 33131

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OFFICE OF PETITIONS

In re Application of	:	
Evelio Acosta	:	
Application No. 10/919,043	:	DECISION ON PETITION
Filed: August 16, 2004	:	TO WITHDRAW
Attorney Docket No. GLM-8331	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 14, 2005.

The petition is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the applicant. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

This application is being referred to Technology Center AU 3727 to await a reply to the non-final Office action mailed December 30, 2005.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: GREGORY L. MAYBACK, P.A.
5722 S. FLAMINGO ROAD #232
FORT LAUDERDALE, FL 33330

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MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

Mail Date: 04/21/2010

Applicant	: Brian R. Quinn	: DECISION ON REQUEST FOR
Patent Number	: 7606831	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/919,046	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **389** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DEC 28 2004
TECHNOLOGY CENTER 3600

HOVEY WILLIAMS LLP
2405 Grand
Suite 400
Kansas City, MO 64108

In re application of Herbert A. Modglin Application No. 10/919,079 Filed: August 16, 2004 For: AUTOMATIC JIGGLING ACTUATOR FOR A FISHING ROD	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on November 12, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Modglin indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 12/22/04

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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

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OFFICE OF PETITIONS

In re Application of	:	
Grisioni et al.	:	
Application No. 10/919085	:	
Filing or 371(c) Date: 08/16/2004	:	ON PETITION
Attorney Docket Number:	:	
FC06214-01US02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 12, 2008, to revive the above-identified application.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed October 1, 2007. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on January 2, 2008. A Notice of Abandonment was mailed May 12, 2008.

Applicant files the present petition, Amendment and terminal disclaimer in response to the Office action.

Applicable law, Rules and MPEP

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The present petition and amendment

The Examiner has reviewed the Amendment and concluded that the Amendment fails to place the application in condition for allowance.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Inquiries regarding the Amendment should be directed to the Examiner. Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
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In re Application of	:	
Grisioni et al.	:	
Application No. 10/919085	:	
Filing or 371(c) Date: 08/16/2004	:	ON PETITION
Attorney Docket Number:	:	
FC06214-01US02	:	

This is a decision on the request for reconsideration of petition under 37 CFR 1.137(b), filed December 23, 2008, to revive the above-identified application. The delay in treating this petition is regretted.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 1, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 2, 2008. A Notice of Abandonment was mailed May 12, 2008.

A petition to revive the application under 37 CFR 1.137(b), filed September 12, 2008, was dismissed in a Decision mailed October 31, 2008, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(b).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (2) the petition fee (filed with the original petition on April 17, 2007); and (3) a proper statement of unintentional delay (filed with the original petition on April 17, 2007) [1].

[1] 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appears in the original petition filed September 12, 2008, and the present petition requests reconsideration of the

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

This application is being referred to Technology Center AU 3728 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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original petition, the renewed petition is being construed as incorporating the required statement of unintentional delay. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

LAW OFFICES OF ROY ANDERSON
3541 OCEAN VIEW BLVD
GLENDALE CA 91208

In re Application of	:	
Jacob Y. Wong	:	
Application No. 10/919,092	:	DECISION ON PETITION
Filed: August 16, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. RLA35.110	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 7, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the applicant declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Office of Initial Patent Examination.

The application is being referred to the Office of Initial Patent Examination for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Roy L. Anderson, Esq.
LAW OFFICES OF ROY ANDERSON
3541 Ocean View Blvd.
Glendale CA 91208

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JAN 11 2008

OFFICE OF PETITIONS

In re Application of	:	
Jacob Y.Wong	:	
Application No. 10/919,092	:	ON PETITION
Filed: August 16, 2004	:	
Attorney Docket No. RLA35.110	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 6, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. A one (1) month extension under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 7, 2005. The Notice of Abandonment was mailed May 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees ($175); (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to the Office of Initial Patent Examination for continued processing.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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SEP 23 2008

In re Application of	:	
Sarda	:	
Application No. 10/919,104	:	ON PETITION
Filed: August 16, 2004	:	
Attorney Docket No. TI-37141	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 23, 2008, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed March 19, 2008. Accordingly, this application became abandoned on June 20, 2008. A Notice of Abandonment was mailed on July 18, 2008.

Applicant has submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85b, an acceptable statement of the unintentional nature of the delay in responding to the March 19, 2008 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/919,113	08/15/2004	2115	770	JP920040102US1	5	20	3

CONFIRMATION NO. 5911

CORRECTED FILING RECEIPT

OC000000014412916

23441
LAW OFFICES OF MICHAEL DRYJA
704 228TH AVENUE NE
PMB 694
SAMMAMISH, WA 98074

Date Mailed: 11/19/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Yasunori Maezawa, Sagamihara-shi, JAPAN;

Power of Attorney:

Joseph Redmond Jr–18753
Stanley Green–24351
John Hoel–26279
Christopher Hughes–26914
Pryor Garnett–32136
William Porter III–33135
Michael Dryja–39662

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 10/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/919,113

Projected Publication Date: 02/16/2006

Non-Publication Request: No

Early Publication Request: No

Title

Automatic restart and resume of computing system upon reapplication of external power

Preliminary Class

713

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MYERS BIGEL SIBLEY & SAJOVEC, P.A.
PO BOX 37428
RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of:
CAMP, William O., Jr.
Application No.: 10/919,114
Filed: August 16, 2004
Attorney Docket No.: 9314-85

DECISION APPROVING
WITHDRAWAL OF ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of Record under 37 CFR § 1.36, filed October 2, 2008.

The Request is **APPROVED**.

Debra K. Stephens requests that she alone be withdrawn as an attorney under 37 CFR § 1.36, pursuant to the reason set forth under 37 CFR § 10.40(b)(2), because of her current employment by the United States Patent and Trademark Office. Since the Request satisfies all of the requirements for withdrawal, it is appropriate to approve the Request and withdraw only Ms. Stephens as an attorney of record.

All future communications from the Office will continue to be directed to the above-identified correspondence address.

A courtesy copy of this decision is being mailed to Ms. Stephens at the address identified in the Request.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Debra K. Stephens
301 Edgemore Avenue
Cary, NC 27519

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FROM DIRECTORS OFFICE
OCT 27 2004
TECHNOLOGY CENTER 3600

MCDERMOTT, WILL & EMERY
ATTN: INTELLECTUAL PROPERTY DEPT.
28 STATE STREET
BOSTON, MA 02109

In re application of	:	**DECISION ON PETITION**
Nahum Guzik et al.	:	**TO MAKE SPECIAL**
Application No. 10/919,133	:	**(APPLICANT'S AGE)**
Filed: August 16, 2004	:	
For: CONSTRAINED LAYER DAMPING ASSEMBLY		

This is a decision on the petition submitted on August 16, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed declaration indicating Mr. Guzik is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 10/19/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Donald W. Meeker
Patent Agent
924 East Ocean Front #E
Newport Beach CA 92661

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MAR 1 4 2008

OFFICE OF PETITIONS

In re Application of

Christopher Demsky :

Application No. 10/919,177

: DECISION ON PETITION

Filed: August 16, 2004

:

Attorney Docket No.

This is a decision on the petition under 37 CFR 1.137(b), filed March 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 9, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136. A response was not received within the allowable period and the application became abandoned June 10, 2006. A Notice of Abandonment was mailed on October 13, 2006.

The amendment filed March 19, 2007, is noted.

The application is being forwarded to Technology Center 3700, GAU 3732 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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VEDDER PRICE P.C.
222 N. LASALLE STREET
CHICAGO, IL 60601

Mail Date: 04/26/2010

Applicant	: Jerry Jaspers	: DECISION ON REQUEST FOR
Patent Number	: 7641438	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/919,179	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **211** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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FULBRIGHT & JAWORSKI, L.L.P.
600 CONGRESS AVENUE
SUITE 2400
AUSTIN, TX 78701

Mail Date: 04/20/2010

Applicant	: Michael Rosenblum	: DECISION ON REQUEST FOR
Patent Number	: 7601341	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/919,193	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **900** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

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DEC 1 0 2004

OFFICE OF PETITIONS

In re Application of
Damien McClean
Application No. 10/919,206
Filed: August 16, 2004
Attorney Docket No. 21573.13
For: Flexible Tank and Method of Making Such a Tank

DECISION DENYING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed August 16, 2004.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks item (2).

The declaration filed is from the parent application. The petition under 37 CFR 1.47 filed in the parent application was dismissed as a result of proprietary interest issues. Petitioner seeks to resolve the proprietary interest issues by removing subject matter which had been added in the parent application. However, the declaration submitted still covers that subject matter. A new declaration (from both the inventor and assignee) should be submitted.

Although not required, petitioner may wish to file a new power of attorney using the petitioner's customer number of 27683 rather than individually listing the attorneys. At the present time, some attorneys, such as Warren Kice, are listed as primary attorneys in one paper while being listed as associate attorneys on another paper. The use of the customer number may clarify the record and make it easier for petitioner to make changes in the future.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street South
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of
Damien McClean
Application No. 10/919,206
Filed: August 16, 2004
Attorney Docket No. 21573.13
For: Flexible Tank and Method of Making Such a Tank

DECISION DENYING STATUS UNDER 37 CFR 1.47(b)

This is in response to the renewed petition under 37 CFR 1.47(b), filed March 14, 2005.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks item (2).

Unfortunately, although the address for an inventor may appear in an ADS rather than in an oath or declaration, the citizenship of the inventor must be included in the oath or declaration. 35 U.S.C. 115 states, "The [oath] shall state of what country [the inventor] is a citizen." The Office may not waive the requirements of a statute. A new oath or declaration, including the citizenship information, should be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

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OFFICE OF PETITIONS

In re Application of Damien McClean Application No. 10/919,206 Filed: August 16, 2004 Attorney Docket No. 21573.13 For: Flexible Tank and Method of Making Such a Tank	: : : : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed August 29, 2005.

The petition is **granted**.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The Office of Initial Patent Examination will be informed of the instant decision so that it may continue to prepare the application for examination.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

FOLEY HOAG, LLP
PATENT GROUP (w/HUV HMV)
155 SEAPORT BLVD.
BOSTON MA 02210-2600

In re Application of

SCHREIBER, Stuart L. et al.
Application No. 10/919,217
Filed: August 16, 2004
Attorney Docket No. **HUV-019.02**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 25, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the attorneys/agents of record must be withdrawn by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed December 28, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **DAVID E. HUIZENGA, PH.D.**
NEEDLE & ROSENBERG, P.C.
999 PEACHTREE STREET
SUITE 1000
ATLANTA, GA 30309-3915

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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JAN 0 4 2008

OFFICE OF PETITIONS

JACKSON & CO., LLP
6114 LA SALLE AVENUE
#507
OAKLAND, CA 94611-2802

In re Application of	:	
Eran STEINBERG, et al	:	
Application No. 10/919,226	:	DECISION ON PETITION
Filed: August 16, 2004	:	TO WITHDRAW
Attorney Docket No. FN101-CIP-3	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Jackson & Co., LLP, has been revoked by the assignee of the patent application on October 16, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: FOTONATION, INC.
IP DEPT.
800 AIRPORT BLVD.
SUITE 522
BURLINGAME, CA 94010

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/919,226	08/16/2004	Eran Steinberg	FN101CIP3

CONFIRMATION NO. 5180

POA ACCEPTANCE LETTER

OC000000026389451

72104
FotoNation, Inc.
IP Dept.
800 Airport Blvd.
Suite 522
Burlingame, CA 94010

Date Mailed: 10/23/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/16/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/atesfai/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/919,226	08/16/2004	Eran Steinberg	FN101CIP3

CONFIRMATION NO. 5180

POWER OF ATTORNEY NOTICE

30349
JACKSON & CO., LLP
6114 LA SALLE AVENUE
#507
OAKLAND, CA 94611-2802

OC000000026389281

Date Mailed: 10/23/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/16/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/atesfai/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

JUN 30 2005

In re Application of	:	
Staton et al	:	ap
Serial Number: 10/919,227	:	DECISION ON
Filed: August 16, 2004	:	PETITION UNDER
For: TREATMENT OF CHEMICAL AGENT	:	M.P.E.P.708.02 XI
HYDROLYSATES	:	

This is in response to the petition filed, June 16, 2005 requesting that the above-identified application be granted Special Status under Section 708.02 (XI) of the MPEP and 37 CFR 1.102(d).

In view of the importance of developing technologies for countering terrorism and the desirability of prompt disclosure of advances made in these fields, the U.S. Patent and Trademark Office will accord "special" status to patent applications relating to counter-terrorism inventions.

International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The types of technologies indicated above for countering terrorism, directly detect or prevent acts of international terrorism. Methods for the destruction of chemical agents, as claimed in the instant application, do not directly detect or prevent such acts and as such, do not comply with the requirements set forth for granting special status.

Accordingly the petition is Denied.

R Crispino

Richard Crispino, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

OIPE
SEP 12 2005
PATENT & TRADEMARK OFFICE

IFW

Attorney Docket No. 16715-0201 (44861-303725)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s):	)		
STATON *et al.*	)		
Serial No. **10/919,227**	)	Art Unit:	**1754**
Filed: **August 16, 2004**	)	Examiner:	**Edward M. Johnson**
For: **TREATMENT OF CHEMICAL AGENT HYDROLYSATES**	)		

PETITION TO MAKE SPECIAL

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In accordance with 37 C.F.R. §1.102 and MPEP § 708.02, the undersigned hereby petitions the Commissioner for advanced examination of the above identified patent application (hereafter "Application"). Advanced examination is requested on the basis of special grounds under 37 CFR §1.102 (a) and (d), and more particularly, as set forth in MPEP § 708.02(V): "Environmental Quality." Applicants understand that no fee is required for such a petition.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450, on September 9, 2005.

Stephen C. MacDonald, Ph.D. – Reg. No. L00

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700
OCT 20 2005

ATLLIB01 2078447.1

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FULBRIGHT & JAWORSKI LLP
600 CONGRESS AVENUE
SUITE 2400
AUSTIN, TX 78701

COPY MAILED
DEC 0 1 2006
OFFICE OF PETITIONS

In re Application of Ronald C. Lundquist et al Application No. 10/919,228 Filed: August 16, 2004 Attorney Docket No. DEKM:096USC3	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed November 29, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 18, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1638 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\NOV10\919228.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2041 AU
AUSTRALIA

COPY MAILED
SEP 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Silverbrook	:	DECISION ON PETITION
Application No. 10/919,382	:	UNDER 37 CFR 1.78(a)(3)
Filed: August 17, 2004	:	
Attorney Docket No. AP112US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 30, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed June 3, 2005.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2625 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application. The Office notes the benefit claim can be found in the amendment filed June 3, 2005.

Francis Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/919,382	08/17/2004	2625	770	AP112US	16	6	1

CONFIRMATION NO. 5857
CORRECTED FILING RECEIPT
OC000000020218535
OC000000020218535

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, NSW 2041
AUSTRALIA

Date Mailed: 08/29/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kia Silverbrook, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/659,022 09/11/2003 PAT 7,092,130
which is a CON of 09/436,589 11/09/1999 PAT 6,628,430

Foreign Applications

AUSTRALIA PP7021 11/09/1998
If Required, Foreign Filing License Granted: 10/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/919,382

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Handheld mobile communications device with a detachable printing mechanism and a slot for print media

Preliminary Class

358

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE

GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

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FEB 0 9 2006

OFFICE OF PETITIONS

In re Patent No. 6,980,013	:	
Issue Date: December 27, 2005	:	
Application No. 10/919,398	:	ON PETITION
Filed: August 17, 2004	:	
Patentee: Kazumichi Machida, et al.	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

SPE: D. Gray

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/12/07

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/919,401 Patent No.: 7120376

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

DAVID M. GRAY
SUPERVISORY PATENT EXAMINER

SPE

2852
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

FAX RECEIVED

DEC 19 2005

OFFICE OF PETITIONS

In re Application of
Andrew May
Application No. 10/919,419
Filed: August 16, 2004
Attorney Docket No.: 15827-060001

ON PETITION

This is a decision on the petition, filed December 13, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 25, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3747 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : December 19, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Andrew May
Application No. : 10/919,419
Filed : August 16, 2004

The above-identified application has been assigned Patent No. 6,981,485 and an issue date of January 3, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of January 3, 2006:

> "All reference to Patent No. 6,981,485 to ANDREW MAY of WISCONSIN for FUEL QUANTITY MODULATION IN PILOT IGNITED ENGINES appearing in the Official Gazette of January 3, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Gregory E. Montone
ANTONELLI, TERRY, STOUT &
KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209-3873

MAILED

DEC 16 2005

TECHNOLOGY CENTER 2100

In re Application of:
S. TOKUDA et al
Application No. 10/919,442
Filed: August 17, 2004
For: STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the renewed petition, filed on November 07, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of November 07, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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NOV 09 2007

OFFICE OF PETITIONS

KOHN & ASSOCIATES, PLLC
30500 NORTHWESTERN HWY
STE 410
FARMINGTON HILLS MI 48334

In re Application of	:	
Wischmeyer, et al.	:	
Application No. 10/919,463	:	DECISION ON PETITION UNDER
Filed: August 16, 2004	:	37 C.F.R. §1.59(b)
Attorney Docket Number:	:	
7128.00009	:	

This is a decision on the petition filed October 2, 2007, pursuant to 37 C.F.R. §1.59(b), requesting that a duplicate response to the non-final Office action mailed May 17, 2007, be expunged.

The application was filed on August 16, 2004. On May 17, 2004, a non-final Office action was mailed, which set a shortened statutory period for reply of three (3) months from its mailing date. On September 25, 2007, Petitioner submitted a response to the non-final Office action. On September 27, 2007, Petitioner submitted a duplicate response to the non-final Office action. Petitioner requests that the response filed September 27, 2007, be expunged from the record.

The petition is **DISMISSED.**

37 C.F.R. §1.59 sets forth:

§ 1.59 Expungement of information or copy of papers in application file.
(a)
(1) Information in an application will not be expunged, except as provided in paragraph (b) of this section.
(2) Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment

specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.
(b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(h) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.
(c) Upon request by an applicant and payment of the fee specified in § 1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (see §§ 1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

[48 FR 2710, Jan. 20, 1983, effective Feb. 27, 1983; 49 FR 554, Jan. 4, 1984, effective Apr. 1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 50 FR 23123, May 31, 1985, effective Feb. 11, 1985; revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (b) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 68 FR 38611, June 30, 2003, effective July 30, 2003]

In deciding the a petition to expunge information from an application, Section 724.05 of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:
>
> (A) the Office can effect such return prior to the issuance of any patent on the application in issue;
>
> (B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
>
> (C) the information has not otherwise been made public;
>
> (D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
>
> (E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
>
> (F) the petition fee as set forth in 37 CFR 1.17(*>g<) is included.

The instant petition does not satisfy (B), (D), or (F) above. The renewed petition provide appropriate statements as to items (B) and (D) and be accompanied by the required petition fee.

The address cited on the petition differs form the address of record. Although a courtesy copy of this decision is being mailed to the address cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Warner Norcross & Judd, LLP
9800 Fifth Third Center
111 Lyon Street, NW
Grand Rapids, MI 49503-2487

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MORGAN LEWIS & BOCKIUS, LLP
1111 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004

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In re Patent No. 7,278,974	:	
Issue Date: October 9, 2007	:	
Application No. 10/919,476	:	NOTICE
Filed: August 17, 2004	:	
Patentee(s): Tomihisa Kato	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on July 2, 2008. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

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MAY 2 3 2008

OFFICE OF PETITIONS

In re Application of :
Peter Stougaard et al :
Application No. 10/919,492 :
Filed: August 17, 2004 :
Attorney Docket No. 14923.0014

ON PETITION

This is a decision on the petition, filed May 21, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 9, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1656 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of	:	
STEIN	:	
Application No. 10/919,494	:	DECISION ON PETITION
Filed: August 17, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 11742-001-999	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed July 27, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4787.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3727 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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STITES & HARBISON PLLC
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SUITE 900
ALEXANDRIA VA 22314

MAILED

MAR 2 6 2010

OFFICE OF PETITIONS

In re Patent No. 7,534,461
Issued: May 19, 2009
Application No. 10/919,524
Filed: August 17, 2004
Dkt. No.: P08217US00/MP

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on March 18, 2009, which is being treated as a petition under 37 CFR 1.705(b) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 1,060 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by 1,060 days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1,060 days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,534,461 B2

DATED : **May 19, 2009** **DRAFT**

INVENTOR(S) : Zeller, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 501 days

Delete the phrase "by 501 days" and insert – by 1,060 days--

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APR 1 9 2006

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GENE SCOTT ; PATENT LAW &
VENTURE GROUP
3140 RED HILL AVENUE
SUITE 150
COSTA MESA, C 92626-3440

In re application of	:	**DECISION ON PETITION**
Eric Ostendorff	:	**TO MAKE SPECIAL**
Application No. 10/919,534	:	**(ACCELERATED**
Filed: August 18, 2004	:	**EXAMINATION)**
For: ROBOTIC RETRIEVAL APPARATUS		

This is in response to the petition filed on November 14, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Rose for

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dcg: 11/17/05

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JAN 13 2005

TECHNOLOGY CENTER 3600

Roger M. Rathbun
13 Margarita Court
Hilton Head Island, SC 29926

In re application of William P. Briley, et al Application No. 10/919,536 Filed: August 17,2004 For: LOCK ASSEMBLY	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on August 17, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by William P. Briley indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/dcg: 12/16/04

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DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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OCT 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Jayantilal S. Patel et al	:	
Application No. 10/919,547	:	DECISION GRANTING PETITION
Filed: August 16, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. H1820-00028	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 1, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee and publication fee (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of February 6, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy
Petitions Examiner
Office of Petitions

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NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

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OCT 15 2004

OFFICE OF PETITIONS

In re Application of :
Ling-Wan Wang :
Application No. 10/919,557 : DECISION GRANTING PETITION
Filed: August 16, 2004 :
Attorney Docket No. CFP00423 :

This is a decision on the petition filed September 1, 2004, under 37 CFR 1.10 requesting that the above-cited application be accorded a filing date of August 16, 2004.

Petitioner alleges that the application was deposited with the Express Mail Service on August 16, 2004. In support of the allegation, the petition is accompanied by a copy of the "Track and Confirm" sheet from the United States Postal Service website confirming that Express Mail package EV315606404US was deposited on August 16, 2004. The tracking number cited on the "Track and Confirm" sheet is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on August 16, 2004.

In view of the above, the petition is granted. The new filing date for the above-cited application is August 16, 2004. It is noted that the Office PALM computer systems does not indicate that a filing date was ever accorded this application, however; a review of the original application papers did not reveal any mistakes or omissions that would prohibit the application being accorded an initial filing date. Should the Office of Initial Patent Examination determine that the original application papers are somehow inadequate, it is expected that the Office of Initial Patent Examination will issue either the appropriate notice, in due course.

The Office of Initial Patent Examination will further process the application with a filing date of August 16, 2004, and issue a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MINNEAPOLIS, MN 55402

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OCT 15 2004

OFFICE OF PETITIONS

In re Application of :
Lee and Jen :
Application No. 10/919,558 : DECISION GRANTING PETITION
Filed: August 16, 2004 :
Attorney Docket No. CFP-016142 :

This is a decision on the petition filed September 1, 2004, under 37 CFR 1.10 requesting that the above-cited application be accorded a filing date of August 16, 2004.

Petitioner alleges that the application was deposited with the Express Mail Service on August 16, 2004. In support of the allegation, the petition is accompanied by a copy of the "Track and Confirm" sheet from the United States Postal Service website confirming that Express Mail package EV315606404US was deposited on August 16, 2004. The tracking number cited on the "Track and Confirm" sheet is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on August 16, 2004.

In view of the above, the petition is granted. The new filing date for the above-cited application is August 16, 2004. It is noted that the Office PALM computer systems does not indicate that a filing date was ever accorded this application, however; a review of the original application papers did not reveal any mistakes or omissions that would prohibit the application being accorded an initial filing date. Should the Office of Initial Patent Examination determine that the original application papers are somehow inadequate, it is expected that the Office of Initial Patent Examination will issue either the appropriate notice, in due course.

The Office of Initial Patent Examination will further process the application with a filing date of August 16, 2004, and issue a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/919,561	08/16/2004	3723	385	CFP-2529 (20040639.ORI)	10	20	2

CONFIRMATION NO. 4056

FILING RECEIPT

OC000000014177991

23595
NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

Date Mailed: 10/25/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Terence Chen, Lo Tung Town, TAIWAN;

Power of Attorney:

Alan Kamrath--28227

Domestic Priority data as claimed by applicant

Foreign Applications

TAIWAN 93118450 06/25/2004

If Required, Foreign Filing License Granted: 10/22/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/919,561

Projected Publication Date: 12/29/2005

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Wrench combination

Preliminary Class

081

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Paper No. None

Reed Smith LLP
2500 One Liberty Place
1650 Market Street
Philadelphia PA 19103-7301

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OFFICE OF PETITIONS

In re Application of
David B. Carroll et al.
Application No. 10/919,563
Filing Date: August 17, 2004
Attorney Docket No. 02-40147-US-C
Title: SYSTEM AND METHOD FOR ORGANIZING INFORMATION

DECISION ON PETITION UNDER 37 C.F.R. §1.53

This is a decision on the petition under 37 C.F.R. §1.53(e), filed November 4, 2004, requesting that the above-identified application be accorded a filing date of August 17, 2004, with Figures 1-21 as part of the original disclosure of the application.

The application was deposited on August 17, 2004. However, on October 21, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application – Filing Date Not Granted" (notice) stating that the application had not been accorded a filing date, and that a filing date would be accorded upon the deposit of drawings. The notice further indicated that an oath or declaration was not deposited on filing. The notice set a two-month period for response.

On November 4, 2004, the instant petition was filed, along with Figures 1-21, a declaration, the petition fee, and the surcharge associated with the late submission of an oath or declaration.

Petitioner states that although the drawings were inadvertently omitted upon filing, nevertheless he has requested that the Office grant a filing date of August 17, 2004 to the above-identified application.

It is noted that claims 17-24 of the present application are directed towards a method. MPEP §608.02 states, in part:

An OIPE formality examiner should not treat an application without drawings as incomplete if drawings are not required. A drawing is not required for a filing date under 35 U.S.C. 111 and 113 if the application contains:

(A) at least one process claim including the term "process" or "method" in its introductory phrase;

(B) at least one composition claim including the term composition," "compound," "mixture" or "pharmaceutical" in its introductory phrase;

(C) at least one claim directed to a coated article or product or to an article or product made from a particular material or composition (i.e., an article of known and conventional character (e.g., a table), coated with or made of a particular composition (e.g., a specified polymer such as polyvinyl-chloride));

(D) at least one claim directed to a laminated article or product (i.e., a laminated article of known and conventional character (e.g., a table)); or

(E) at least one claim directed to an article, apparatus, or system where the sole distinguishing feature is the presence of a particular material (e.g., a hydraulic system using a particular hydraulic fluid, or a conventional packaged suture using a particular material).

For a more complete explanation about when a drawing is required, see MPEP 601.01(f). For applications submitted without all of the drawings described in the specification, see MPEP § 601.01(g). If an examiner determines that a filing date should not have been granted in an application because it does not contain drawings, the matter should be brought to the attention of the supervisory patent examiner (SPE) for review. If the SPE decides that drawings are required to understand the subject matter of the invention, the SPE should return the application to OIPE with a typed, signed, and dated memorandum requesting cancellation of the filing date and identifying the subject matter required to be illustrated.

Pursuant to this section of the MPEP, it has been PTO practice to treat an application that contains at least one compound, composition, or method claim as an application for which a drawing is not necessary for an understanding of the invention under the first sentence of 35 U.S.C. §113. A review of the record reveals that the claims contain method claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as originally filed, is entitled to a filing date of August 17, 2004. It is further noted that Petitioner has not submitted an amendment requesting that the above-mentioned figures be entered into the record. As such, they will not be entered.

The petition is **GRANTED**.

The notice, mailed on October 21, 2004, was sent in error, and is hereby **VACATED**. As such, no petition fee is necessary, and the petition fee has been refunded to petitioner's Deposit Account, as authorized in the petition.

If Petitioner wishes to have the figures which were submitted with the instant application entered, he should submit a Preliminary Amendment. Petitioner should note that one of the figures submitted with the instant petition (the figure which likely is intended to constitute Figure 17) does not bear a label.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 17, 2004, using only the application papers filed on that date.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT C. RYAN NATH & ASSOCIATES, PLLC
1030 15TH STREET NW, 6TH FLOOR
WASHINGTON, DC 20005

COPY MAILED

SEP 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Benjamin J. Solomon	:	
Application No. 10/919,566	:	ON PETITION
Filed: August 17, 2004	:	
Attorney Docket No. 40245	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 19, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 19, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 20, 2004.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc:

Ryan A. Heck
Klarquist Sparkman, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ROBERT C. RYAN NATH & ASSOCIATES, PLLC
1030 15TH STREET NW, 6th FLOOR
WASHINGTON, DC 20005

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Benjamin J. Solomon	:	
Application No. 10/919,566	:	DECISION ON PETITION
Filed: August 18, 2004	:	TO MAKE SPECIAL
Attorney Docket No. 40245	:	37 CFR 1.102(c)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 22, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must be accompanied any evidence showing that the applicant is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of Inventor Benjamin J. Solomon's Nevada Drivers License and a statement from Mr. Solomon stating that he is 65 years old. Accordingly, the above-identified application has been accorded "special" status.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquires concerning this decision should be directed to Irvin Dingle at (571) 272-3210.
All other inquires concerning either the examination or status of the application should be directed to Technology Center 3700 at (571) 272-3700.

The application is being forwarded to the Technology Center Art Unit 3713 for expedited prosecution.

Denise Pothier
Petitions Examiner
Office of Petitions

cc:

Robert C. Ryan
Klarquist Sparkman, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204

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MOETTELI & ASSOCIES SARL
CASE POSTALE 486
AVE DE FRONTENEX 6
GEVEVA 12 CH-12-11 CH SWITZERLAND

COPY MAILED

AUG 0 4 2005

OFFICE OF PETITIONS

Applicant: Ribordy et al.
Appl. No.: 10/919,573
Filing Date: August 17, 2004
Title: METHOD AND APPARATUS FOR GENERATING TRUE RANDOM NUMBERS BY WAY OF A QUANTUM OPTICS PROCESS
Attorney Docket No.: PUS-1002-001
Pub. No.: US 2005/0071400 A1
Pub. Date: March 31, 2005

This is a decision on the paper titled a "Request for Republication of Erroneously Published Application," received on May 9, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error as the Office published the wrong drawings, as the drawings that were published are foreign to the above-identified application.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The instant request does not identify a material mistake in the publication made by the office. The application was correctly published with the drawings submitted by Applicants' representative on December 9, 2004, in response to the Notice To File Corrected Application Papers.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Applicant's request for a Corrected Publication on May 9, 2005, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 703-872-9306 or after July 15, 2005, 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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MOETTELI & ASSOCIES SARL
CASE POSTALE 486
AVE DE FRONTENEX 6
GEVEVA 12 CH-12-11 CH SWITZERLAND

COPY MAILED
JUN 0 2 2006
OFFICE OF PETITIONS

Applicant: Ribordy et al.
Appl. No.: 10/919,573
Filing Date: August 17, 2004
Title: METHOD AND APPARATUS FOR GENERATING TRUE RANDOM NUMBERS BY WAY OF A QUANTUM OPTICS PROCESS
Attorney Docket No.: PUS-1002-001
Pub. No.: US 2005/0071400 A1
Pub. Date: March 31, 2005

This is a decision on the paper titled a "Petition Under 37 CFR 1.221 For Republication of Erroneously Published Application And Request for Reconsideration of Decision on request For Republication," received on September 21, 2005, for the above-identified application. This paper is being treated under 37 CFR 1.181 and 37 CFR 1.221, as a petition for reconsideration of the request for corrected publication, which was dismissed on August 4, 2005.

The petition is DISMISSED.

Petitioner argues that the application should be republished because the patent application publication contains a material error as the Office published the application with the wrong drawings. Petitioner argues that the Office has a duty to republish the application with the correct drawings, as the publication with the incorrect drawings negatively affects the publics ability to (1) appreciate the technical disclosure of the patent application, (2) determine the scope of the patent application publication, or (3) determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. Petitioner argues that while the mistake of the Office is innocent, as was Applicant's error in submitting the incorrect substitute drawings in this application, the Office should not have simply accepted the drawings that were submitted by Applicant. Petitioner argues that the public is harmed by the Office's improper acceptance of the drawings submitted by Applicant and that the Applicant has standing to request correction of the office records.

According to 37 CFR 1.215(a), "[t]he patent application publication will be based upon the application papers deposited on the filing date of the application as well as the executed oath or declaration submitted to complete the application and an application papers or drawings submitted in reply to a preexamination notice requiring a title and abstract in compliance with § 1.72, application papers in compliance with § 1.52, drawings in compliance with § 1.84, or a sequence listing in compliance § 1.821 through § 1.825, except as otherwise provided in this section."

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

Petitioner does not identify a material mistake in the publication made by the Office. The application was correctly published in accordance with Office procedure. The application was published with the drawings submitted by Applicants' representative on December 9, 2004, in response to the Notice To File Corrected Application Papers. According to 37 CFR 1.215, the Office will publish the application with the drawings submitted to comply with a preexamination notice. Petitioner's argument that the Office should have reviewed the drawings that he innocently incorrectly submitted in response the preexamination notice, noticed Petitioner's error in submitting the incorrect drawings and required Petitioner submit correct drawings is not persuasive. The Office is not required to find Applicant's mistakes and correct them. See *In re Lambrech*, 202 USPQ 620 (Comm'r Pat. 1976). While the Office of Initial Patent Examination does a formalities review, the examination of the content of the application is done by the Examiner. With respect to Petitioner's argument that the public is harmed because they may not appreciate the technical disclosure of the publication, the public may review the complete application file including the drawings on the USPTO website using public PAIR.

It is noted that the drawings submitted on December 9, 2004, in response to the preexamination notice, have not been replaced by new drawings submitted by an amendment. Since different branches or sections of the Office may consider different matters, each distinct subject must be contained in a separate paper dealing with different subject. See 37 CFR 1.4(c). Amendments are required to be in compliance with 37 CFR 1.121 and the Office has not received an amendment.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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GENEVA CH-12-11 CH SWITZERLAND

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NOV 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
RIBORDY, et al.	:	
Application No. 10/919,573	:	DECISION GRANTING PETITION
Filed: August 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **PUS-I002-001**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 31, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 25, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2193 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the information disclosure statement filed on September 24, 2008.

Monica A. Graves
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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United States Patent and Trademark Office
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CHARLES N.J. RUGGIERO, ESQ.
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
ONE LANDMARK SQUARE, 10th FLOOR
STAMFORD CT 06901-2682

COPY MAILED
SEP 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Mann et al.	:	
Application No. 10/919,583	:	DECISION ON PETITION
Filed: August 17, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 637.0001USQ3	:	

This is a decision on the petitions under 37 CFR § 1.78(a)(3), filed May 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to the prior-filed application set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **DISMISSED AS MOOT**.

A Supplemental ADS, indicating the relationship between prior-filed international Application No. PCT/EP03/000485, filed January 20, 2003, and prior-filed nonprovisional Application No. 10/201,652, filed July 22, 2002, accompanies the petition. The Office notes that the relationship between the prior-filed international and nonprovisional applications was not included in an ADS or in the first sentence of the specification following the title as required by the rules. Nevertheless, in the preliminary amendment submitted on filing, prior-filed international Application No. PCT/EP03/000485 claimed priority to prior-filed nonprovisional Application No. 10/201,652, and therefore, the reference was present on filing.

Although the relationship between the prior-filed international and nonprovisional applications was not indicated in the first sentence of the specification or in an ADS, the Office noted the claim for priority. Accordingly, no petition will be required to accept a late claim for priority because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). On the other hand, if the USPTO did not note the claim for priority to the prior-filed application, a petition would have been required to accept the late claim

for priority under 37 CFR § 1.78(a)(3).[1] In the present case, the Office noted the claim for priority to the prior-filed application in the preliminary amendment filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $1370.00 petition fee submitted is unnecessary and will be refunded to applicant's deposit account in due course.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2883 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/919,583	08/17/2004	2883	950	637.0001USQ3	49	20	2

CONFIRMATION NO. 6574

CORRECTED FILING RECEIPT

OC000000020541056

CHARLES N.J. RUGGIERO, ESQ.
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
ONE LANDMARK SQUARE, 10th FLOOR
STAMFORD, CT 06901-2682

Date Mailed: 09/22/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Hans-Juergen Mann, Oberkochen, GERMANY;
Wolfgang Singer, Aalen, GERMANY;
Joerg Schultz, Aalen, GERMANY;
Johannes Wangler, Koenigsbronn, GERMANY;
Karl-Heinz Schuster, Koenigsbronn, GERMANY;
Udo Dinger, Oberkochen, GERMANY;
Martin Antoni, Aalen, GERMANY;
Wilhelm Ulrich, Aalen, GERMANY;

Assignment For Published Patent Application

Carl Zeiss SMT AG

Power of Attorney:

Charles Ruggiero--28468
Paul Greeley--31019

Domestic Priority data as claimed by applicant

This application is a CIP of PCT/EP03/00485 01/20/2003
and is a CIP of 10/201,652 07/22/2002 PAT 6,859,328
and said PCT/EP03/00485 01/20/2003
is a CIP of 10/201,652 07/22/2002 PAT 6,859,328
which is a CIP of 09/679,718 09/29/2000 PAT 6,438,199
and is a CIP of 10/150,650 05/17/2002 PAT 7,006,595
which is a CIP of 09/679,718 09/29/2000 PAT 6,438,199
which is a CIP of 09/305,017 05/04/1999 PAT 6,198,793

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) PCT/EP00/07258 07/28/2000
GERMANY DE 299 02 108.4 02/08/1999
GERMANY DE 199 03 807.4 02/02/1999
GERMANY DE 198 19 898.1 05/05/1998

If Required, Foreign Filing License Granted: 10/16/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/919,583

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

ILLUMINATION SYSTEM PARTICULARLY FOR MICROLITHOGRAPHY

Preliminary Class

250

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 04/20/2010

Applicant	: Alan G. Wood	: DECISION ON REQUEST FOR
Patent Number	: 7645635	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/919,604	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **351** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MARK FARBER, ESQ.
U.S. SURGICAL
A DIVISION OF TYCO HEALTHCARE GROUP, LP
150 GLOVER AVENUE
NORWALK CT 06856

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OCT 0 7 2009

OFFICE OF PETITIONS

In re Application of Robert C. Platt Application No. 10/919,614 Filed: August 17, 2004 Attorney Docket No. 2471 CON II (203.2461 CON	DECISION ON PETITION UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed June 18, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed applications as listed in the amendment filed concurrently.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of prior applications, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, since the nonprovisional and provisional applications were not in the original specification, the incorporation by reference statement cannot be used in reference to the applications.

Further, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The amendment filed June 18, 2009 fails to state the relationship of Application No. 09/666,954, filed September 20, 2000, to the intermediate application, Application No. 10/316,228.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement and stating the relationship of the prior-filed application to the intermediate application, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

Petitioner's deposit account has been charged the $1,410.00 petition fee as authorized June 18, 2009.

---

[1] *Note* 37 CFR 1.121

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Stephen Perkins
Covidien
195 McDermott Road
North Haven, CT 06473

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OFFICE OF PETITIONS

In re Application of	:	
Robert C. Platt	:	
Application No. 10/919,614	:	DECISION GRANTING PETITION
Filed: August 17, 2004	:	UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 2471 CON II (203.2461 CON	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 6, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed on August 17, 2004 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The second intermediate nonprovisional Application 09/666,954 filed September 20, 2000 was filed within twelve months of the filing date of the prior-filed provisional

application, Application No. 60/157,718, filed October 5, 1999, for which priority is claimed.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 3772 for appropriate action on the amendment submitted November 6, 2009, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: **ATTACHMENT**: Corrected Filing Receipt

cc: Stephen Perkins
195 McDermott Road
North Haven, CT 06473

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/919,614	08/17/2004	3772	1196	2471 CON II (203.2461 CON	27	3

CONFIRMATION NO. 6939

CORRECTED FILING RECEIPT

Mark Farber, Esq.
U.S. Surgical
A Division of Tyco Heathcare Group, LP
150 Glover Avenue
Norwalk, CT 06856

OC000000039055493

Date Mailed: 12/02/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Robert C. Platt, Laguna Niguel, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/316,228 12/10/2002 PAT 6,852,112
which is a CON of 09/666,954 09/20/2000 PAT 6,616,660
which claims benefit of 60/157,718 10/05/1999

Foreign Applications

If Required, Foreign Filing License Granted: 10/12/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/919,614**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MULTI-PORT SIDE-FIRE COAGULATOR

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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EDWARD S. SHERMAN, ESQ.
3554 ROUND BARN BLVD.
SUITE 303
SANTA ROSA CA 95403

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OFFICE OF PETITIONS

In re Application of :
Publicover et al. :
Application No. 10/919,623 : DECISION ON PETITION
Filed: August 17, 2004 :
Attorney Docket No. 130.03NP :

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed February 11, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on May 12, 2005. A Notice of Abandonment was mailed on August 18, 2005.

This petition is hereby **GRANTED**.

The Office hereby acknowledges the receipt of the amendment submitted on December 19, 2005 .

This application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Steven L. Adams
Application No. 10/919,637
Filed: August 17, 2004
Attorney Docket No. 4034M

ON PETITION

This is a decision on the petition, filed June 27, 2006, to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

A non-Final Office Action was mailed December 8, 2005 which set a three month period for response. No response thought to have been filed, this application became abandoned March 9, 2006. Accordingly, a Notice of Abandonment was mailed June 13, 2006. Petitioner argues however that a response was filed on June 8, 2006, with a three month extension of time and provides copies of the response bearing a certificate of mail dated June 8, 2006, pursuant to 37 CFR 1.8, and a copy of a post card receipt post marked on June 13, 2006 by the USPTO.

A search of the application file and the USPTO records reveals that in fact, an amendment was filed with a three month extension of time and thus was timely filed on June 8, 2006 (certificate of mail date). The receipt date for the amendment and three month extension of time is June 13, 2006 and a copy of the post-card receipt, date stamped by the USPTO on June 13, 2006 is of record with the instant petition.

Accordingly, the response was timely and the Notice of Abandonment mailed June 13, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 1643 for treatment of the amendment filed September 25, 2006, in response to the Notice of Non-Compliant Amendment mailed September 12, 2006, as appropriate.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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KONRAD RAYNES & VICTOR, LLP
ATTN: IBM54
315 SOUTH BEVERLY DRIVE, SUITE 210
BEVERLY HILLS, CA 90212

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SEP 03 2009

OFFICE OF PETITIONS

In re Application of	:	
Joseph Lim Cho CHAN	:	
Application No. 10/919,674	:	DECISION GRANTING PETITION
Filed: August 16, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **SVL920040553US2**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 2, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 4, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2457 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
Koji MURATSUBAKI et al. :
Application No. 10/919,677 : DECISION ON PETITION
Filed: August 16, 2004 :
Attorney Docket No. **021964/337041** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 08, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed August 24, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 25, 2006. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2783.

This application is being referred to Technology Center AU 3677 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Koji Muratsubaki	: DECISION ON REQUEST FOR
Patent Number	: 7574783	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/919,677	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of Cox et al. :
Application No. 10/919,697 :
Filing Date: August 16, 2004 :
Attorney Docket No. HI03029C1 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed May 25, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 2, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on July 3, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2646 will be informed of the instant decision and the application, including the election filed May 26, 2006, will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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CARLSON, GASKEY & OLDS/PRATT & WHITNEY
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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MAR 1 0 2009

OFFICE OF PETITIONS

In re Patent No. 7,459,131 :
Issued: December 2, 2008 :
Application No. 10/919,700 : ON PETITION
Filed: August 16, 2004 :
Attorney Docket Number: :
67397-068PUS1:1894

This is a decision on the petition for correction of assignee's name, filed February 17, 2009 under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that the assignee is PRATT & WHITNEY ROCKETDYNE, INC., and that the failure to include the correct assignee name on the Fee(s) Transmittal form PTOL-85(b) was an inadvertent error on the part of the applicant. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request is accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that PRATT & WHITNEY ROCKETDYNE, INC., is the assignee of record. Accordingly, as the request complies

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[1] *See* Official Gazette of June 22, 2004

with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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WELSH & KATZ, LTD.
ERIC D. COHEN
22ND FLOOR
120 SOUTH RIVERSIDE PLAZA
CHICAGO, IL 60606

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of	:	
YANG, Chen-nan et al.	:	
Application No. 10/919,709	:	DECISION ON PETITION
Filed: August 17, 2004	:	TO WITHDRAW
Attorney Docket No. **TAIW 879**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to WELSH & KATZ, LTD. has been revoked by the assignee of the patent application on December 05, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RABIN & Berdo, PC**
1101 14TH STREET, NW
SUITE 500
WASHINGTON DC 20005

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Townsend and Townsend and Crew LLP/IntraLase Corp.
Eighth Floor
Two Embarcadero Center
San Francisco, CA 94111

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OFFICE OF PETITIONS

In re Application of Zadoyan et al. :
Application No. 10/919,710 :
Filing Date: August 17, 2004 :
Attorney Docket No. 18158B-034710US :

On Application For
Patent Term Adjustment

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION filed May 11, 2009. Applicants submit the correct patent term adjustment to be indicated on the patent is six hundred one (601) days, not two hundred seventy-six (276) day as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does

not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111

Mail Date: 04/21/2010

Applicant	: Ruben Zadoyan	: DECISION ON REQUEST FOR
Patent Number	: 7584756	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/919,710	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **608** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091005

DATE : October 05, 2009

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction on Patent No.: 7460185 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/Lin Ye/
Supervisory Patent Examiner, Art Unit 2622

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1109 MCKAY DRIVE
SAN JOSE, CA 95131

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MAY 01 2008

In re Application of	:	
Zong Liang Wu	:	
Application No. 10/919,756	:	ON PETITION
Filed: August 17, 2004	:	
Attorney Docket No. PHN 17,822A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 12, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 19, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 2182 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Mark A. Wilson
PMB: 348
2530 Berryessa Road
San Jose, CA 95132

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Attention: Bruce K. Lagerman
Suite 550
11921 Freedom Drive
Reston, VA 20190

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In re Application of	:	
Ed Pool, et al.	:	
Application No. 10/919,763	:	DECISION ON PETITION
Filed: August 17, 2004	:	TO WITHDRAW
Attorney Docket No. 14521.1USC2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 6, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Douglas Mauer**
BizNet Technologies, Inc.
Virginia Tech Corporate Research Center
1715 Pratt Drive, Suite 3500
Blacksburg, VA 24060

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OFFICE OF PETITIONS

In re Application of :
Timothy B. Cowles :
Application No. 10/919,770 :
Filed: August 16, 2004 :
Attorney Docket No.: 2269-7503.3US (01-0843.03 :

ON PETITION

This is a decision on the petition, filed June 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 19, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2827 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

Applicant	: Yee Kong Ng	: DECISION ON REQUEST FOR
Patent Number	: 7636511	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/919,804	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1074** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CHARLES N.J. RUGGIERO, ESQ.
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
10th FLOOR
ONE LANDMARK SQUARE
STAMFORD CT 06901-2682

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Batcha :
Application No. 10/919,812 :
Deposited: August 17, 2004 :
Attorney Docket No. PL067USQ1 :
FOR: POSITIONABLE BRASSIERE SHOULDER STRAP PAD

This is a decision on the petition to accord filing date, filed December 15, 2004 (certificate of mailing date December 10, 2004), requesting that the Office grant the application a filing date of August 17, 2004 using the three sheets of drawings filed with the instant petition. Petitioner asserts that this application is entitled to the benefit of continuation application number 10/702,103, filed November 5, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on August 17, 2004. On October 12, 2004, the Office mailed a Notice of Incomplete Nonprovisional Application (Notice) informing petitioner that drawings appeared to be omitted from the application and the filing date of the application would be the date of receipt of the drawings.

Petitioner argues that since applicant claimed benefit of application no. 10/702,103, and application no. 10/702,103 contains the omitted drawings, that the above-identified application should retain a filing of date of August 17, 2004 with the omitted drawings as part of the application.

While it is true that petitioner claimed benefit of the prior application, there is no incorporation by reference statement found in the transmittal letter, declaration, or specification. The mere reference in an application to another application is not an incorporation of anything contained in the other application into the referencing application. See In re Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973) and Dart Industries, Inc. v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980). Therefore, the fact that applicant claimed benefit in the papers filed on August 17, 2004 based on the prior application does not mean that applicant incorporated-by-reference into the papers filed in the present application on August 17, 2004 anything disclosed in the prior application.

The petition is **DISMISSED**.

Regarding finances, the Office did not receive a check for $130.00. Deposit account no. 01-0467 was charged the current petition fee of $400.00. The $400.00 petition fee will not be refunded, since the petition was not necessitated by any error on the part of the Office.

Petitioner is encouraged to file applicant's date stamped itemized postcard receipt. A date

stamped properly itemized postcard receipt constitutes *prima facie* evidence that the items listed on the postcard were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. MPEP 503.

The application is being returned to the Office of Initial Patent Examination. The application still has not been accorded a filing date.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
170 WOOD AVENUE SOUTH
attn: VDO-MDS docketing migration
ISELIN, NJ 08830

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OFFICE OF PETITIONS

In re Application of	:	
MODIEN, Russell M.	:	
Application No. 10/919,818	:	DECISION ON PETITION
Filed: August 17, 2004	:	Under 37 CFR 1.137(b)
Attorney Docket No. **2003P12571US01**	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 21, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 25, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 26, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Gary H. Monka appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Monka desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The application is being referred to Technology Center Art Unit 3751 for consideration of the amendment filed May 21, 2007.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **CANAVAN & MONKA, LLC**
250 STATE ROUTE 28, SUITE 207
BRIDGEWATER, NJ 08807

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SABRA-ANNE R. TRUESDALE
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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OFFICE OF PETITIONS

In re Application of :
Rashesh J. Jethi et al :
Application No. 10/919,820 : NOTICE
Filed: August 16, 2004 :
Attorney Docket No. 23073-08083

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ATLANTA GA 30303-1763

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OFFICE OF PETITIONS

In re Application of	:	
Liotta et al.	:	
Application No. 10/919,824	:	DECISION ON PETITION
Filed: August 17, 2004	:	
Attorney Docket No. 18085.105310(EMU	:	
3020 CON)	:	

This is a decision on the petition, filed on July 20, 2005 (certificate of mailing dated Monday, July 18, 2005), requesting that the above-identified application be accorded a filing date of August 17, 2004, with page 277 of the specification as a part of the original disclosure.

The petition is granted.

On August 17, 2004, petitioners filed the above-identified application. On May 15, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Items in a Nonprovisional Application, stating that the application had been accorded a filing date of August 17, 2004; however, it appeared that page 277 of the specification had been omitted.

In response, on July 20, 2005, (certificate of mailing dated Monday, July 18, 2005), petitioner submitted the present petition, page 277 of the specification, a copy of their returned, date-stamped postcard receipt, and an authorization to charge the petition fee. The returned, date-stamped postcard receipt acknowledged receipt of, *inter alia*, "Utility Application (Specification 454 pp., 4 pages drawings) in the USPTO on August 17, 2004.

Petitioners assert that all transmittal pages referred to in the Certificate of Mailing indicate that the specification (description, claims, and abstract) is 445 pages, which includes page 277. Further, petitioners acknowledge that the returned, date-stamped postcard receipt indicates that the specification consists of 454 pages, instead of 445. However, petitioners explain that the postcard contained "an obvious typographical error in which the "4" and "5" were transposed." *Petition dated July 20, 2005, p.2.* Petitioners request that the Office accord the above-identified application, including page 277 of the specification, a filing date of August 17, 2004.

A review of the official file reveals that pages 1-276, 278-424 of description, pages 425-444 of claims, and page 445 of abstract have been located. As such, it is obvious that the entire specification consisted of 445 pages rather than 454 pages. It appears that the USPTO employee, who compared petitioners' postcard to the items received on filing, found that the specification (including claims and abstract) contained at least 454 pages. Accordingly, the evidence is persuasive that page 277 was among the application papers received on August 17, 2004, but was subsequently misplaced in the USPTO.

In view of the above, the petition is granted. The Notice of May 16, 2005, was sent in error and is hereby withdrawn. The petition fee of $400.00 is unnecessary and will be refunded to petitioners" deposit account.

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of August 17, 2004,** using pages 1-276, 278-445 of the specification submitted on that date, and page 277 of the specification submitted on July 20, 2005, as part of the original disclosure.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHNEIDER ELECTRIC / SQUARE D COMPANY
LEGAL DEPT. - I.P. GROUP
1415 S. ROSELLE ROAD
PALATINE, IL 60067

Mail Date: 05/06/2010

Applicant	: Ronald H. Naismith	: DECISION ON REQUEST FOR
Patent Number	: 7613783	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/919,829	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1089** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JOHN J. DANIELS, ESQ
511 FOOT HILLS ROAD
HIGGANUM, CT 06441

COPY MAILED

FEB 13 2006

OFFICE OF PETITIONS

In re Application of
John J. Daniels, et al.
Application No. 10/919,830
Filed: August 17, 2004
Attorney Docket No. AT-0804(B)

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 3, 2006 to withdraw the above-identified application from issue after payment of the issue fee.

It does not appear that the petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Richard R. Michaud appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Michaud desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Michaud, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 26, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The application is being referred to Technology Center AU 2818 for further processing of the request for continued examination under 37 CFR 1.114 filed February 3, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MICHAUD-DUFFY GROUP LLP
306 INDUSTRIAL PARK ROAD
SUITE 206
MIDDLETOWN, CT 06457

COC

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 23, 2006

TO SPE OF : ART UNIT ~~1755~~ 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 10919840 Patent No.: 6,923,840

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

J.A. LORENGO
SUPERVISORY PATENT EXAMINER

SPE

1793
Art Unit

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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

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FEB 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Mileti and Fisher :
Application No. 10/919,858 :
Filed: August 17, 2004 :
Attorney Docket No. 02844-P0010B :

DECISION GRANTING PETITION

This is a decision on the petition filed December 1, 2004, to vacate the language in the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") relative to allegedly omitted figures.

The petition is **granted**.

On August 17, 2004, the above-identified application was filed. However, on December 1, 2004, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date of August 17, 2004, and advising applicant that Figures 11 and 12 as described in the specification appeared to have been omitted. Relative to the omitted figures, the Notice set a non-extendable period for reply two-months from its mailing date.

In response, on December 1, 2004, applicant filed the present petition, a copy of Figures 11 and 12, and an Office date-stamped postcard receipt acknowledging receipt of 8 pages of the drawings, among other items.

Upon review of the record, Figures 11 and 12 were not located among the application papers. However, the evidence is convincing that the application papers deposited August 17, 2004, included Figures 11 and 12, which were subsequently misplaced by the Office. Therefore, the application, including Figures 11 and 12, was complete on filing and entitled to the presently accorded filing date of August 17, 2004, with Figures 11 and 12 as part of the original disclosure.

Accordingly, the petition is granted; the language of the Notice relative to the omitted items is vacated, accordingly. The petition fee of $130.00 will be refunded, in due course.

Petitioner is advised that a review of the application file did not reveal 8 sheets of drawings, but 6 sheets. It is further noted that, even when the allegedly omitted sheet of drawings are counted, there are still only 7 sheets of drawings. Notwithstanding, the instant petition was granted because the Office acknowledged receiving 8 sheets of drawings making it highly probably that the alleged omitted figures were a part of those 8 sheets of drawings. It is presumed that the Office Initial Patent Examination will take appropriate measures to reconcile the number of sheets of drawings acknowledged as being received with the number of sheets of drawings currently found in the application file.

The application file is being directed to the Office of Initial Patent Examination for further processing with the presently accorded filing date of August 17, 2004, using the drawings filed on that date.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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APR 2 6 2005

Stephen H. Doctor
MCDONNELL BOEHNEN HULBET & BERGHOFF
300 South Wacker
Suite 3200
Chicago, IL 60606

In re Application of:	:	
SIRNA THERAPEUTICS, INC.	:	
PCT No.: PCT/US02/15876	:	DECISION ON PETITION
International Filing Date: 17 May 2002	:	UNDER 37 CFR 1.10
Priority Date: 18 May 2001	:	
Attorney's Docket No.: 02-312-PCT;600.019	:	
For: CONJUGATES AND COMPOSITIONS FOR	:	
CELLULAR DELIVERY	:	

This decision is issued in response to the "Petition To Accord Express Mail 'Date In' As Filing Date" filed 03 August 2004, treated herein under 37 CFR 1.10(c). The petition seeks to correct the international filing date to 17 May 2002. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EL602855817US. The transmittal letter filed with the application materials lists this "Express Mail" label number, and identifies the date of deposit as 17 May 2002.

On 20 June 2002, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 20 May 2002 as the international filing date.

On 03 August 2004, applicant filed the petition considered herein. The petition seeks correction of the international filing date to 17 May 2002, the date on which applicant claims the application was deposited with the USPS. The submission includes, among other materials, a copy of the customer receipt for Express Mail label number EL602855817US, which bears a "date in" of 17 May 2002.

DISCUSSION

The present international application was accorded an international filing date of 20 May 2002. Applicant asserts that the proper international filing date is 17 May 2002, the date on which the Express Mail envelope containing the application materials was deposited with the USPS. As noted above, applicant has supplied a copy of the customer receipt for the Express

Mail envelope bearing a "date in" of 17 May 2002, and the Express Mail label number for this envelope was identified on the transmittal letter filed with the application papers. In addition, the USPTO Express Mail database identifies 17 May 2002 as the date on which this Express Mail envelope was accepted by the USPS.

Based on applicant's statements, the Express Mail database acceptance date of 17 May 2002, and the 17 May 2002 "date in" entered by the USPS on the Express Mail label, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 May 2002. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 May 2002.

CONCLUSION

Applicant's petition for correction of the international filing date is **GRANTED**.

The international filing date is corrected to **17 May 2002**. The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 June 2002, which identified 20 May 2002 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which correctly identifies the international filing date as **17 May 2002** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/9/09 **Paper No.:** —

TO SPE OF : ART UNIT 3762

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/919904 Patent No.: 7536223B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ■ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Scott Getzow, acting SPE for A.U. 3762

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Mail Date: 04/21/2010

Applicant	: Shuming Nie	: DECISION ON REQUEST FOR
Patent Number	: 7588827	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/919,944	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **917** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Mail Date: 05/18/2010

Applicant : Shuming Nie
Patent Number : 7588827
Issue Date : 09/15/2009
Application No : 10/919,944
Filed : 08/17/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **963** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO, IL 60606-6306

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OFFICE OF PETITIONS

In re Application of	:	
Gentaro Kano et al	:	
Application No. 10/919,949	:	ON PETITION
Filed: August 17, 2004	:	
Attorney Docket No. 075834.00530	:	

This is a decision on the petition filed December 28, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed August 21, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 22, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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H. C. Chan
T-RAM Semiconductor, Inc.
620 N. McCarthy Blvd.
Milpitas, CA 95035-5124

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OFFICE OF PETITIONS

In re Application of

Horch, et al.

Application No. 10/919,956

Filed: August 17, 2004

Attorney Docket No. PA2385-D-1

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), December 1, 2005, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $700.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed April 4, 2005. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on July 5, 2005. A Notice of Abandonment was mailed on October 28, 2005

The issue fee was received on December 1, 2005.

Form PTOL-85B, filed June 30, 2005, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

In re Application of
Kutshcer, et al.
Application No. 10/919,958
Filed: August 16, 2004
Attorney Docket No. 559162000420

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 12, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas E. Clotti on behalf of all attorneys of record who are associated with customer No. 25226.

All attorneys/agents associated with the Customer Number 25226 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: TUVUA D. KUTSCHER
HAMACABEEN STREET
NO. 79B
SHOLAM, ISRAEL

cc: DR. TUVIA D. KUTSCHER
D-CROWN LTD
3 HABARZAL STREET
RAMAT HACHAYAL
TEL-AVIV 69710
ISRAEL

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/919,958	08/16/2004	Tuvia D. Kutscher	559162000420

CONFIRMATION NO. 8723

OC000000020661654

OC000000020661654

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 10/02/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/12/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/919,963	08/17/2004	2676	1925	E0000-1001p1	8	74	26

CONFIRMATION NO. 8717

UPDATED FILING RECEIPT

OC000000014864808

24208
ROBERT PLOTKIN, ESQ
45 BUTTERNUT CIRCLE
CONCORD, MA 01742-1937

Date Mailed: 01/03/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Richard S. Goldhor, Belmont, MA;
Edward J. Bianchi, Bothell, WA;

Power of Attorney: The patent practitioners associated with Customer Number **24208**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/014,894 12/01/2001 PAT 6,791,550

Foreign Applications

If Required, Foreign Filing License Granted: 10/16/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/919,963

Projected Publication Date: 04/14/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Management of presentation time in a digital media presentation system with variable rate presentation capability

Preliminary Class

345

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

King & Spaulding
1185 Avenue of the Americas
New York, New York 10036-4003

In re Application of
Rozhan et al. et al.
Application No. 10/919,969
Filed: August 17, 2004
Attorney Docket NO. 13784.105003

: DECISION HOLDING PTA REQUEST
:IN ABEYANCE UNTIL AFTER ISSUE
:DATE

This decision is in response to applicants' REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b) [1] timely filed on November 16, 2007 requesting that the Office adjust the PTA at the time of the mailing of the notice of allowance to at least 525 days.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants are reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions*; *Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

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[1]Issue fee paid on July November 16, 2007.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

After the mailing of this decision, this application will be forwarded to the office of patent publications for a prompt issuance of the patent. The Office notes that any delays in issuing the application within four months of the payment of the issue fee and all other requirements being satisfied will be added to the determination that is mailed with the issue notification letter.

The Office has assessed the $200.00 fee required of this request. No additional fees are required in considering this matter.

Any questions should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Day : Friday
Date: 12/14/2007

PALM INTRANET

Time: 09:29:46

PTA Calculations for Application: 10/919969			
Application Filing Date:	08/17/2004	PTO Delay (PTO):	436
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	2
Post-Issue Petitions:	0	Total PTA (days):	434
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
42	11/07/2007	MAIL NOTICE OF ALLOWANCE			
41	11/07/2007	MAIL EXAMINER'S AMENDMENT			
40	11/02/2007	ISSUE REVISION COMPLETED			
39	11/02/2007	DOCUMENT VERIFICATION			
38	11/02/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	11/02/2007	EXAMINER'S AMENDMENT COMMUNICATION			
36	10/18/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
34	11/02/2007	NOTICE OF ALLOWABILITY			
31	09/17/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
30	10/04/2007	DATE FORWARDED TO EXAMINER			
29	09/17/2007	AMENDMENT AFTER FINAL REJECTION		2	25
28	09/17/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
27	09/25/2007	DATE FORWARDED TO EXAMINER			
26	09/17/2007	AMENDMENT AFTER FINAL REJECTION			
25	06/15/2007	MAIL FINAL REJECTION (PTOL - 326)			
24	06/11/2007	FINAL REJECTION			
23	05/25/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
22	03/27/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
21	03/30/2007	DATE FORWARDED TO EXAMINER			
20	03/27/2007	RESPONSE AFTER NON-FINAL ACTION			
19	01/26/2007	CORRESPONDENCE ADDRESS CHANGE			
		CHANGE IN POWER OF ATTORNEY (MAY			

18	01/26/2007	INCLUDE ASSOCIATE POA)			
17	12/27/2006	MAIL NON-FINAL REJECTION	436		-1
16	12/21/2006	NON-FINAL REJECTION			
15	08/17/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
14	12/28/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	12/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	08/17/2004	REFERENCE CAPTURE ON IDS			
11.7	08/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	08/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	08/17/2004	PRELIMINARY AMENDMENT			
9	10/20/2004	APPLICATION RETURN FROM OIPE			
8	10/20/2004	APPLICATION RETURN TO OIPE			
7	10/20/2004	APPLICATION DISPATCHED FROM OIPE			
6	10/21/2004	APPLICATION IS NOW COMPLETE			
5	10/05/2004	CLEARED BY L&R (LARS)			
4	09/30/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	09/30/2004	CASE CLASSIFIED BY OIPE			
2	09/10/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/17/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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NEW YORK NY 10036-4003

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OFFICE OF PETITIONS

In re Patent No. 7,323,195	:	
ROZHON et al.	:	DECISION ON REQUEST
Issue Date: January 29, 2008	:	FOR RECONSIDERATION OF
Application No. 10/919,969	:	PATENT TERM ADJUSTMENT
Filed: August 17, 2004	:	
Atty Docket No. 13784.105003	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF USPTO DECISION REGARDING CORRECTION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed January 30, 2008, which is properly being treated under 37 CFR 1.705(d). Patentee requests that the Patent Term Adjustment for the above-identified patent be set at 599 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

On January 29, 2008, the above-identified application matured into U.S. Patent No. 7,323,195. The instant request for reconsideration was timely filed on January 30, 2008. The patent issued with a revised Patent Term Adjustment of 434 days.

Patentee requests that the revised Patent Term Adjustment be set at 599 days. Specifically, patentee asserts that a period of adjustment of 165 days should be entered for the Office taking in excess of three years to issue the patent. Patentee does not dispute the number of days of patent term reduction under 37 CFR 1.704(b) or adjustment under to 37 CFR 1.702(a)(1).

The instant patent issued three years and 165 days after its filing date. However, any days of delay for Office issuance of the patent more than three years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

In this instance, the period of delay of 165 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 436 days attributable to the grounds specified in 37 CFR 1.702(a)(1). Thus, no additional period of adjustment beyond 436 days was entered. Accordingly, the period of 436 days for Office delay is correct.

In view thereof, the patent term adjustment of **434 days** indicated in the patent is correct.

The Office acknowledges the payment of the $200.00 fee set forth in 37 CFR 1.18(e) on November 16, 2007.[1] No additional fees are required.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[1] As stated in the decision of December 17, 2007, applicants may seek reconsideration of the patent term adjustment for Office failure to issue the patent within three years without payment of an additional fee.

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OFFICE OF PETITIONS

EDWARDS ANGELL PALMER & DODGE LLP
P.O. Box 55874
BOSTON MA 02205

In re Patent No. 7,323,195	: DECISION ON REQUEST FOR
Rozhon et al.	: RECONSIDERATION OF
Issue Date: January 29, 2008	: PATENT TERM ADJUSTMENT
Application No. 10/919,969	: AND
Filed: August 17, 2004	: NOTICE OF INTENT TO ISSUE
Docket No. 873794(47381)	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 28, 2008, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred ninety-nine (599) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred ninety-nine (599) days is **GRANTED**.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred ninety-nine (599) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,323,195 B2

DATED : Jan. 29, 2008 **DRAFT**

INVENTOR(S) : Rozhon et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 434 days

Delete the phrase "by 434 days" and insert – by 599 days--

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CHICAGO IL 60602

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OFFICE OF PETITIONS

In re Application of	:	
Bansemer et al.	:	DECISION ON APPLICATION
Application No. 10/919,971	:	FOR
Filed: August 16, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 0112300-2405	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENTS UNDER 37 C.F.R. § 1.705(b)," filed November 6, 2006. Applicants request that the determination of patent term adjustment be corrected from two hundred forty-eight (248) days to two hundred seventy (270) days.

The application for patent term adjustment is **DISMISSED**.

On September 6, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 248 days. The instant application for patent term adjustment was timely filed[1]. Applicants dispute the reduction of 22 days on the basis that their first and second response to the Office action mailed July 13, 2006 were both filed within three months of the mailing date of the Office action. Applicants argue therefore that there was no failure to engage within the meaning of §1.704(b).

Applicants' argument has been considered, but not found persuasive. A period of reduction of 22 days was properly entered. 37 C.F.R. §1.704(c)(7) provides that a period of reduction is entered for:

> Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703

[1] PALM records indicate that the Issue Fee was received on November 6, 2006.

> shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

In this instance, an initial response to the non-final Office action mailed July 13, 2006 was received on July 26, 2006. By Notice mailed August 1, 2006, applicants were advised that there was an omission in this response. The response correcting this omission was filed on August 17, 2006. Thus, the period of reduction is 22 days counting the number of days in the period beginning on July 27, 2006, the day after the reply having an omission was filed, and ending on August 17, 2006, the date that the reply correcting the omission was filed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is TWO HUNDRED FORTY-EIGHT **(248)** days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The Office of Patent Publication has been advised of this decision. The application is thereby forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
BOLGER et al.	:	
Application No. 10/919,973	:	DECISION ON PETITION
Filed: 08/16/2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. OS-10005	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 2, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

37 CFR 1.78(a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being

construed as the statement required by 37 CFR 1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

As all of the above requirements have been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1626 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/919,973	08/16/2004	1626	900	OS-10005	16	2

CONFIRMATION NO. 6602

CORRECTED FILING RECEIPT

38724
OSI PHARMACEUTICALS, INC.
41 PINELAWN ROAD
MELVILLE, NY 11747

OC000000030314818

Date Mailed: 06/05/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Joshua Bolger, Mishawaka, IN;
Arlindo L. Castelhano, New City, NY;
Andrew Phillip Crew, North Babylon, NY;
Radoslaw Laufer, Holtsville, NY;
An-Hu Li, Bayshore, NY;
Colin Peter Sambrook Smith, Syresham, UNITED KINGDOM;
Yingchuan Sun, Huntington Station, NY;

Power of Attorney:
Shu Lee--41147
Alexander Stewart--47110
Kim Nguyen--47821

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/496,766 08/21/2003

Foreign Applications

If Required, Foreign Filing License Granted: 10/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/919,973**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

N-substituted pyrazolyl-amidyl-benzimidazolyl c-Kit inhibitors

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

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Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Paper No.

OSI PHARMACEUTICALS, INC.
420 Saw Mill River Road
Ardsley NY 10502

MAILED

JUL 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,485,658	:	DECISION ON REQUEST
Bolger et al.	:	FOR
Issue Date: February 3, 2009	:	RECONSIDERATION OF
Application No. 10/919,973	:	PATENT TERM ADJUSTMENT
Filed: August 16, 2004	:	and
Atty Docket No. OS-10005	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 23, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand thirty-one (1031) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred seventy-nine (979) days.

The over three year pendency period is 537, not 538 days, counting the number of days beginning on August 17, 2007, the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), and ending on February 3, 2009, the date of issuance of the patent. See 37 CFR 1.703(b). Further, patentee fails to take into account a period of overlap of 51 days for Office delay in issuing the patent after payment of the issue fee and satisfaction of all outstanding requirements. Considering this period, the patent term adjustment is increased by 486 days to 979 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by nine hundred seventy-nine (979) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,485,658 B2

DATED : **February 3, 2009** **DRAFT**

INVENTOR(S) : Bolger et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby
corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 493 days

Delete the phrase "by 493 days" and insert – by 979 days--

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DALLAS TX 75380

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JUN 29 2010

OFFICE OF PETITIONS

In re Application of :
Nguyen :
Application No. 10/919,978 : ON APPLICATION FOR
Filed: August 17, 2004 : PATENT TERM ADJUSTMENT
Docket No. 2003.12.016.NS0 :

This is in response to the REQIEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b) filed April 27, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand four hundred seventy-three (1473) days, not one thousand twenty-four (1024) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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MAXIMILIAN R. PETERSON
O'KEEFE, EGAN & PETERMAN, LLP
BUILDING C, SUITE 200
1101 CAPITAL OF TEXAS HIGHWAY SOUTH
AUSTIN, TX 78746

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Larry W. Fullerton	:	
Application No. 10/919,980	:	DECISION ON PETITION
Filed: August 17, 2004	:	TO WITHDRAW
Attorney Docket No. TDCO-027 F.13B)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed October 12, 2006.

The request is **APPROVED**.

A review of the file record indicates that Maximilian R. Peterson: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Maximilian R. Peterson has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest under 37 C.F.R. §3.71 at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Applicant is reminded that there is no attorney of record at this time.

There are no pending office actions at the present time.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: LARRY W. FULLERTON
120 WIMBLEDON DRIVE
BROWNSBORO, AL 35741

cc: MARK ROBERTS
TIME DOMAIN CORPORATION
7057 OLD MADISON PIKE
SUITE 250
HUNTSVILLE, AL 35806

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1101 CAPITAL OF TEXAS HIGHWAY SOUTH
BUILDING C, SUITE 200
AUSTIN, TX 78746

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DEC 26 2006

OFFICE OF PETITIONS

In re Application of

FULLERTON
Application No. 10/919,984
Filed: August 17, 2004
Attorney Docket No. TDCO:026 (F.13A)

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 12, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Maximilian R. Peterson on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LARRY W. FULLERTON**
120 WIMBLEDON DRIVE
BROWNSBORO, AL 35741

cc: **MARK ROBERTS**
TIME DOMAIN CORPORATION
7057 OLD MADISON PIKE, SUITE 250
HUNTSVILLE, AL 35806

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/919,984	08/17/2004	Larry W. Fullerton	TDCO:026 (F.13A)

CONFIRMATION NO. 6483

OC000000021720559

Maximilian R. Peterson
O'KEEFE, EGAN & PETERMAN, LLP
Building C, Suite 200
1101 Capital of Texas Highway South
Austin, TX 78746

Date Mailed: 12/22/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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2071 CLOVE ROAD - 204
STATEN ISLAND, NY 10304

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NOV 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Erwin Craig	:	
Application No. 10/919,991	:	ON PETITION
Filed: August 17, 2004	:	
Attorney Docket No. 16681	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue fee.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application file is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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Jennifer D. Adamson
Shell Oil Company
Legal-Intellectual Property
P.O. Box 2463
Houston, TX 77252-2463

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OFFICE OF PETITIONS

In re Application of	:	
Chandrasekharan et al.	:	
Application No. 10/920,008	:	DECISION
Filed: August 17, 2004	:	ON PETITION
Atty Docket No. TS0974 02(US)	:	
	:	

This is a decision on the "PETITION UNDER RULE 1.78," filed December 6, 2004, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to prior-filed nonprovisional Application no. 09/850,943.

The petition is **DISMISSED AS MOOT**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. However, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Along with the instant petition under 37 CFR § 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application.

The instant pending nonprovisional application was filed on August 17, 2004, and was pending at the time of the filing of the instant petition. 37 CFR 1.78(a)(2)(ii) provides, in pertinent part, that:

> This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application.

This petition, with an amendment[1] to the specification to include the reference, was filed on December 6, 2004, within four months from the filing date of this application, August 17, 2004. Given that the claim for priority was submitted within the period specified in 37 CFR 1.78(a)(2)(ii), the petition to accept a delayed claim for priority is considered moot.

Moreover, while a reference to the prior-filed application was not included in an application data sheet (ADS) or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with this application.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR

---

[1] This amendment is acceptable despite the inclusion of an incorporation by reference statement, because the application as filed included a statement incorporating by reference prior application No. 09/850,943 in the application transmittal.

§ 1.78(a)(3)[2]. In the instant case, the Office noted the claim for priority of the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt mailed October 13, 2004.

In view of the dismissal of the instant petition as moot, payment of the surcharge under 37 CFR 1.17(t) is unnecessary. The fee will be refunded to Deposit Account NO. 19-1800.

This application is being forwarded to Technology Center Art Unit 3752 for appropriate action on the amendment filed December 6, 2004, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed nonprovisional application.

Telephone inquiries concerning this matter should be directed to Senior Petitions Attorney Nancy Johnson at (571) 272-3219.

Charles A. Pearson
Director
Office of Petitions

[2] Note MPEP 201.11(II)(D), pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 FR 67087, 67089 (December 28, 2001) effective December 28, 2001.

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

In re Application of
Amitabh Jain
Application No. 10/920,023
Filed: August 17, 2004
Attorney Docket No. TI 36966

ON PETITION

This is a decision on the petition, filed May 15, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 21, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on May 17, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $1,500.00; and (3) the requisite statement of unintentional delay.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application is being referred to Technology Center AU 2823 for consideration of the response filed May 15, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Schwegman, Lundberg & Woessner, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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MAY 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Kathryn E. Uhrich	:	
Application No. 10/920,026	:	DECISION ON PETITION
Filed: August 17, 2004	:	TO WITHDRAW
Attorney Docket No. 1435.007US4	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 24, 2006.

The request is **moot because a revocation of power of attorney has been previously filed.**

A review of the file record indicates that the power of attorney to Monique Shonka and all attorneys/agents of record has been revoked by the assignee of the patent application on May 1, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Viksnins, Harris & Padys, PLLP
P.O. Box 111098
St. Paul, MN 55111-1098

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/920,027	08/17/2004	Christophe Pierrat	NMTI 1000-12 (0706CON6)	6177

30437 7590 07/23/2009
NUMERICAL C/O HAYNES BEFFEL & WOLFELD LLP
PO BOX 366
HALF MOON BAY, CA 94019

EXAMINER
ROSASCO, STEPHEN D

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
07/23/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Commissioner for Patents
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Mailed: JUL 23 2009

Re application of:
Christophe Pierrat
Serial No.: 10/920,027
Filed: August 17, 2004
For: PHASE SHIFT MASK INCLUDING SUB-RESOLUTION ASSIST FEATURES FOR ISOLATED SPACES

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 C.F.R. 1.84(a)(2) TO ACCEPT COLOR DRAWINGS filed January 22, 2009. The petition includes (1) the fee as required by 37 CFR 1.17(h), (2) three sets of the color photographs, (3) an amendment to the specification which includes the language set forth in 37 CFR 1.84(a)(2)(iii), and (4) an explanation stating why color photographs are necessary.

A review of the application record indicates that all of the requirements for acceptance of color photographs have been met.

The Petition is **GRANTED**.

Mark F. Huff
Supervisory Patent Examiner
Group Art Unit 1795

NUMERICAL
C/O HAYNES BEFFEL & WOLFELD LLP
PO BOX 366
HALF MOON BAY CA 94019

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NUMERICAL C/O HAYNES BEFFEL & WOLFELD LLP
PO BOX 366
HALF MOON BAY, CA 94019

Mail Date: 04/21/2010

Applicant	: Christophe Pierrat	: DECISION ON REQUEST FOR
Patent Number	: 7585595	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/920,027	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1068** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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NUMERICAL C/O HAYNES BEFFEL & WOLFELD LLP
PO BOX 366
HALF MOON BAY, CA 94019

Mail Date: 05/18/2010

Applicant : Christophe Pierrat
Patent Number : 7585595
Issue Date : 09/08/2009
Application No : 10/920,027
Filed : 08/17/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1175** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 25 2007

Commissioner for Patents
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DANA REWOLDT
GARST SEED COMPANY
2369 330TH STREET
PO BOX 500
SLATER IA 50244

In re Application of :
Carlone
Serial No.: 10/920,033
Filed: August 17, 2004
Attorney Docket No.: G3601-CON

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed May 18, 2007, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on May 4, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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EVEREST INTELLECTUAL PROPERTY LAW GROUP
P. O. BOX 708
NORTHBROOK, IL 60065

COPY MAILED

JUL 30 2007

OFFICE OF PETITIONS

In re Application of	:	
SHAW, Sandy C.	:	
Application No. 10/920,035	:	DECISION ON PETITION
Filed: August 17, 2004	:	TO WITHDRAW
Attorney Docket No. **115001-011**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 8, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to EVEREST INTELLECTUAL PROPERTY LAW GROUP has been revoked by the assignee of the patent application on April 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PROCOPIO, CORY, HARGREAVES & SAVITCH LLP**
530 B STREET, SUITE 2100
SAN DIEGO, CA 92101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

AUG 03 2006

OFFICE OF PETITIONS

In re Application of	:	
Salahuddin et al.	:	
Application No. 10/920,040	:	DECISION ON PETITION
Filed: August 16, 2004	:	TO WITHDRAW
Attorney Docket No. 025503-000100US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Carol A. Fang on behalf of all attorneys of record who are associated with customer No. 20350.

All attorneys/agents associated with the Customer Number 20350 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed June 29, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Mr. Syed Zaki Salahuddin
California Institute of Molecular Medicine
1710 Donlon Street
Suite 6
Ventura, CA 93003-5698

cc: Mr. Mir Saied Kashani
California Institute of Molecular Medicine
1710 Donlon Street
Suite 6
Ventura, CA 93003-5698

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Yuh-Cherng Wu	: DECISION ON REQUEST FOR
Patent Number	: 7644065	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/920,047	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **816** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JUN 04 2007

David C. Jenkins
Eckert Seamans Cherin & Mellott, LLC
44th Floor
600 Grant Street
Pittsburgh PA 15219

In re Application of:
SHACKELFORD, HOWARD L. SR.
Serial No. 10/920,084
Filed: Aug. 17, 2004
Docket: 192946-00020
Title:
SHELL FOR SCALPEL

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petitions filed Mar. 8, 2007 and Mar. 19, 2007 under 37 CFR 1.181 requesting supervisory review of the advisory action mailed Feb. 26, 2007. In the petition, petitioner requests entry of the Exhibit filed on 1/25/07 under 37 CFR 1.116. The petition is being considered under 37 CFR 1.181 and no fee is required. The petition fee paid $400.00 will be refunded upon request.

The petition is **Dismissed as moot**.

The examiner was instructed to construe the petition as a request for reconsideration. In finding petitioner's points of argument persuasive, the requested relief is granted. In view of the examiner's action, decision on the petition is moot and is dismissed.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Karen M. Young
for Frederick R. Schmidt, Director
Technology Center 3700

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/920,092	08/17/2004	2812	842	MICRON.258DV2	11	24	2

CONFIRMATION NO. 6766

CORRECTED FILING RECEIPT

OC000000015532704

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 03/22/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Paul A. Farrar, Okatie, SC;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 10/291,909 11/08/2002

Foreign Applications

If Required, Foreign Filing License Granted: 10/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/920,092

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Coating of copper and silver air bridge structures to improve electromigration resistance and other applications

Preliminary Class

438

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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SMITH MOORE LLP
P.O. BOX 21927
GREENBORO NC 27420

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MAY 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Waldemar Inger et al	:	
Application No. 10/920,109	:	DECISION ON PETITIONS
Filed: August 17, 2004	:	
Attorney Docket No. 5003073.030US2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 19, 2008, to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition filed May 19, 2008, under 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a foreign application.

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 5, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition under 37 CFR 1.55(c) is **DISMISSED**.

The petition fails to comply with item (2) above. In this regard, the Application Data Sheet (ADS) submitted with the petition includes the reference to the PCT application with the 120 domestic benefit claim and the foreign priority claim. Also, the filing date for the PCT application in the domestic information is 2001-03-07, and in the foreign as 2000-03-31. No filing date was provided for foreign Application No. DE10016041.7 on the ADS. Clarification is required.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SMITH MOORE, LLP
P.O. BOX 21927
GREENSBORO NC 27420

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JUN 0 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Waldemar Inger et al	:	
Application No. 10/920,109	:	DECISION ON PETITIONS
Filed: August 17, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 5003073.030US2	:	AND 37 CFR 1.55(c)

This is a decision on the renewed petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed June 2, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to a prior-filed PCT application, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed Application Data Sheet.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the requirements being met, the petition to accept an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) is **GRANTED.**

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

All of the requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(a)-(d) to the prior-filed foreign application is **GRANTED**.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being to referred Technology Center Art Unit 1794 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120, 365(c) and 35 U.S.C. § 119(a)-(d) to the prior-filed applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/920,109	08/17/2004	1794	1070	5003073.030US2	13	2

CONFIRMATION NO. 6794

CORRECTED FILING RECEIPT

29737
SMITH MOORE LLP
P.O. BOX 21927
GREENSBORO, NC 27420

OC000000030302298

Date Mailed: 06/05/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Waldemar Inger, Krefeld, GERMANY;
Rudiger Hose, Tonisvorst, GERMANY;
Heinz-Peter Bohlmann, Krefeld, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number 29737

Domestic Priority data as claimed by applicant

This application is a CON of 10/260,313 09/27/2002 PAT 7,157,141
which is a CON of PCT/EP01/02555 03/07/2001

Foreign Applications

GERMANY DE10016041.7 03/31/2000

If Required, Foreign Filing License Granted: 10/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/920,109**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

PULVERULENT POLYMERS CROSSLINKED ON THE SURFACE

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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APR 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Neo Chee Peng, et al.	:	
Application No. 10/920,117	:	DECISION GRANTING PETITION
Filed: August 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 108298704US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 24, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 27, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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FEB 2 2 2007

OFFICE OF PETITIONS

In re Application of	:	
David Sellers	:	
Application No. 10/920,129	:	DECISION ON PETITION
Filed: August 17, 2004	:	TO WITHDRAW
Attorney Docket No. 04764-009002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the attorney for the applicant wishes to withdraw by customer number, but were not appointed by customer number.

There is an outstanding Office action mailed June 14, 2006 that requires a reply by the applicant.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DAVID SELLERS
DBA MAD RIVER ROCKET CO.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

In re Application of Michael Lindner, et al. Application No. 10/920,135 Filed: August 17, 2004 Attorney Docket No. 10191/3774	: : : : :	ON PETITION

This is a decision in response to the petition, filed December 4, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 7, 2007, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 8, 2008. A Notice of Abandonment was mailed on November 6, 2008. On December 4, 2008, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2886 for appropriate action by the Examiner in the normal course of business on the response filed December 4, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Michael Lindner	: DECISION ON REQUEST FOR
Patent Number	: 7576864	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/920,135	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **346** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
THE BOWEN BUILDING
875 15TH STREET, N.W. SUITE 800
WASHINGTON, DC 20005-2221

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OFFICE OF PETITIONS

In re Application of	:	
MAHONEY, et al.	:	
Application No. 10/920,138	:	DECISION ON PETITION
Filed: August 17, 2004	:	TO WITHDRAW
Attorney Docket No. AE2002-003CIP	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 27, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Sean R. O'Dowd does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest. The change of address submitted on August 4, 2006 is also not acceptable because Larry Williams is not an attorney of record. See 37 CFR 1.33(a)(2).

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: **JOHN D. PIRNOT**
ADVANCED ENERGY INDUSTRIES, INC.
1625 SHARP POINT DR.
FORT COLLINS CO 80525

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REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET, SUITE 2100
MILWAUKEE, WI 53202

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APR 25 2008

OFFICE OF PETITIONS

In re Application of	:	
John P. Downs et al	:	
Application No. 10/920,151	:	ON PETITION
Filed: August 17, 2004	:	
Attorney Docket No. 8163	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 8, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 9, 2007.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $525 extension of time submitted with the petition on December 14, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1734 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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ALLEN, DYER, DOPPELT, MILBRATH
& GILCHRIST P.A.
1401 CITRUS CENTER
255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO FL 32802-3791

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AUG 1 9 2008

OFFICE OF PETITIONS

In re Application of :
Andrew J. FARNSWORTH et al. :
Application No. 10/920,155 : DECISION ON PETITION
Filed: August 16, 2004 :
Attorney Docket No. ID-1196 (86100) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 04, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 02, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is May 03, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $510.00; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of November 02, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 2617 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Allen, Dyer, Doppelt, Milbrath & Gilchrist - RIM
255 S. Orange Avenue
Suite 1401
Orlando, FL 32801

Mail Date: 04/20/2010

Applicant	: Andrew John Farnsworth	: DECISION ON REQUEST FOR
Patent Number	: 7596379	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/920,155	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **296** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-06-09

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/920180 Patent No.: 7513214

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Approved. The initial on the 1449 across the cited reference was inadvertently missed by the examiner. The cited reference was considered by the examiner.

/Parviz Hassanzadeh/ — **SPE**

1792 — **Art Unit**

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OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

Soo Kie Kim et al.	:	LETTER REGARDING
Application No. 10/920,181	:	PATENT TERM ADJUSTMENT
Patent No. 7,408,050	:	
Filed: August 18, 2004	:	
Issued: August 5, 2008	:	
Attorney Docket No. 05823.0273	:	
Title: MODIFIED CPG	:	
OLIGODEOXYNUCLEOTIDE WITH IMPROVED	:	
IMMUNOREGULATORY FUNCTION	:	

This is a decision on the "NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT AND REQUEST FOR CLARIFICATION OF CALCULATION," filed January 15, 2009.

Pursuant to their duty of good faith and candor to the Office, patentees disclose that the patent term adjustment indicated on the Notice of Allowance and Issue Fee Due be corrected from five hundred and four (504) days to four hundred and eighty-nine (489) days.

The request for reconsideration of the patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

Pursuant to 37 C.F.R. § 1.702(a)(1), the Office is required to mail a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. § 111(a). This application was filed on August 18, 2004, and a non-final Office action was not mailed until April 2, 2007, which is fourteen months and 531 days after the filing of this application.

This resulted in a period of 531 days of Office delay. Pursuant to 37 C.F.R. § 1.704(b), the failure to reply to an Office action within three months is a failure to engage in reasonable efforts to conclude prosecution. The above-referenced non-final action was mailed on April 2, 2007, and a response was not received until January 16, 2008, which is three months and 27 days after the mailing of the Office communication.

This resulted in a period of 27 days of Applicant delay.

With this letter of January 15, 2009, the Patentee has indicated that the filing of a "Request for Refund filed on January 31, 2008, may count against the Patentee under the supplemental paper rule," pursuant to 37 C.F.R. § 1.704(c). However, the electronic file has been reviewed, and this Request for Refund filed on January 31, 2008 **has not been located therein**. As such, it appears that the Office did not receive this submission.

The proper period of adjustment for Office delay was properly calculated to be 531 days. The proper period of reduction for Applicant delay is 27 days.

In view thereof, the patent properly issued with a revised patent term adjustment of 504 (531 - 27) days.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 application fee under 37 C.F.R. § 1.705(b). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Chung-Kun Cho	: DECISION ON REQUEST FOR
Patent Number	: 7629083	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/920,196	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1512** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Brunner et al.	:	
Application No. 10/920,234	:	ON PETITION
Filed: August 18, 2004	:	
Attorney Docket No.	:	
1866.0450001/PEG/CMB		

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 11, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination and fee (submission under 37 CFR 1.114 was previously submitted on May 20, 2006); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 1600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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LINIAK BERENATO & WHITE
SUITE 240
6550 ROCK SPRING DRIVE
BETHESDA MD 20817

In re Application of	:	
Chuang, et al.	:	
Application No. 10/920,258	:	DECISION ON PETITION
Filed: August 18, 2004	:	TO WITHDRAW
Attorney Docket No. 8283.014	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas P. Liniak on behalf of himself.

All other attorneys/agents associated with this application remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action that was mailed on April 10, 2006 that requires a response by the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise

April M. Wise
Petitions Examiner
Office of Petitions

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 06/16/2010

Applicant	: Shunpei Yamazaki	: DECISION ON REQUEST FOR
Patent Number	: 7623098	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/920,279	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1475** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

In re Application of:
Otsubo, Toshifumi et al
Serial No.: 10/920,299
Filed: Aug. 18, 2004
Docket: 2038-341
Title: DISPOSABLE WEARING ARTICLE

DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on the petition filed Jan. 3, 2008 to review the restriction requirement issued on Jun. 6, 2006. The petition is being considered pursuant to 37 CFR 1.181 and CFR 1.144 and no fee is required for the petition.

The petition is **GRANTED**.

In his Jan. 3, 2008 petition, petitioner requests the examiner to withdraw the restriction requirement issued on Jun. 6, 2006 regarding election of species requirement. In particular, petitioner requests that the election of species requirement be modified or withdraw the election of species requirement. In the petition, petitioner argues that the examiner's identification of the disclosed species is inaccurate. As a result of the inaccurate identification of species, claims 7-8 were omitted in the elected species.

After consulting with the examiner, it was agreed that the restriction requirement should be modified as suggested by petitioner. An Office action on the merits including claims 7-8 will follow in due course. Therefore, the request for modification of the election of species requirement and rejoinder of claims 7-8 in the application is hereby granted.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3761 for further processing. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

Frederick R. Schmidt, Director
Technology Center 3700

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TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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In re Application of	:	
Wang, et al.	:	
Application No. 10/920,306	:	ON PETITION
Filed: August 18, 2004	:	
Attorney Docket No. BHT-3244-97	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned February 11, 2008 for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of October 10, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one month extension of time pursuant under 37 CFR 1.136(a) was obtained. Notice of Abandonment was mailed May 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (2) the required petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 3205.

This application is being referred to Technology Center AU 2889 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 06/01/2010

Applicant	: Shunpei Yamazaki	: DECISION ON REQUEST FOR
Patent Number	: 7623099	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/920,324	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1306** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 06/01/2010

Applicant	: Shunpei Yamazaki	: DECISION ON REQUEST FOR
Patent Number	: 7623100	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/920,326	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1474** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MAR 16 2005

TECHNOLOGY CENTER 3600

Richard C. Litman
Litman Law Offices, Ltd.
P.O. Box 15035
Arlington, VA 22215

In re application of
Bruce Carmichael
Application No. 10/920,329
Filed: August 18, 2004
For: STORM SHELTER

: **DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on August 18, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration submitted by Bruce Carmichael indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Domer
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/dcg: 2/9/05

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1700 DIAGONAL ROAD
SUITE 300 /310
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Zampini et al.	:	DECISION ON PETITION
Application No. 10/920,347	:	TO MAKE SPECIAL
Filed: August 18, 2004	:	37 CFR1.102(D)
Attorney Docket No. 4706-007U	:	

This is a decision on the petition under 37 CFR 1.102(c) (2)(ii), filed February 1, 2006, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The petition states that the applicant's invention "... relates to the reduction of energy consumption in lighting systems." The instant petition lacked any specifics about HOW and HOW MUCH the invention materially contributes to item (B), above. Without specific details about how the invention functions, the above statements are inadequate to establish for the record that the invention "materially contributes to the more efficient utilization and conservation of energy resources."

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2875 for action in its regular turn.

Dennis Patterson for

David Bucci
Petitions Examiner
Office of Petitions

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Paper No.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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JUL 21 2010
OFFICE OF PETITIONS

In re Application of	:	
Eijendaal, et al.	:	DECISION ON APPLICATION
Application No. 10/920,386	:	FOR
Filed: August 18, 2004	:	PATENT ERM ADJUSTMENT
Atty Docket No.		
01975.0060-00	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER UNDER 37 CFR 1.705(d)," filed December 15, 2008. Applicants request that the patent term adjustment of six-hundred and sixty one(671) days be adjusted to a determination of eight hundred and ninety five(895) days.

The request for reconsideration of patent term adjustment is **GRANTED-IN-PART**.

On October 14, 2008, the above-identified application matured into US Patent No. 7,435,7381 with a patent term adjustment of 661 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e), paid on December 15, 2008. No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to a total patent term

adjustment of 895 days, which includes 234 days due to exceeding three year pendency.

In view of the Federal Circuit decision Wyeth v. Kappos, No. 2009-1120 (Fed. Cir., Jan. 7, 2010), patentees request is granted-in-part. In the instant situation, patentees do not dispute the "A" period delay of 661 days.

Patentees err in the "B" period calculation by one day. In that, the period is calculated from the day after the 36 months, i.e. from August 18, 2007 until one day before the filing of an RCE or the issue date. In this case the RCE was filed on April 8, 2008, hence the "B" period extends from August 19, 2007 to April 7, 2008 for a total of 233 days. Thus, the PTA term is the total "A" delay of 661 days, plus the total "B" delay of 233 days. As a result the request of a total PTA of 895 days is **granted-in-part for a total of 894 days.**

Since the Office will issue a certificate of correction based upon a grant-in-part of patentees request, the Office is providing patentee one month or thirty (30) days whichever is opportunity to be heard on the issuance of the certificate of correction. Nothing in this decision provides any different time remedy to commence a civil action in the district court pursuant to 35 USC 154.

Telephone inquiries specific to this decision should be directed to Maria Nuzzolillo, Legal Advisor, at (571) 272-8150, or the undersigned at 571-272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,435,738 B2

DATED : October 14, 2008 **Draft**

INVENTOR(S) : Eijendaal, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 894 days

Delete the phrase "by 671 days" and insert – by 894 days--

PALM INTRANET

Day : Monday
Date: 7/19/2010
Time: 10:56:06

PTA Calculations for Application: 10/920386

Application Filing Date:	08/18/2004	PTO Delay (PTO):	661
Issue Date of Patent:	10/14/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	894
PTO Delay Adjustment:	233		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
65	07/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	233		
60.5	09/24/2008	PTA 36 MONTHS			
60	10/14/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
59	09/10/2008	EXPORT TO FINAL DATA CAPTURE			
58	09/09/2008	DISPATCH TO FDC			
57	09/09/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
56	09/08/2008	ISSUE FEE PAYMENT VERIFIED			
55	09/08/2008	ISSUE FEE PAYMENT RECEIVED			
54	06/17/2008	EXPORT TO INITIAL DATA CAPTURE			
53	06/13/2008	MAIL NOTICE OF ALLOWANCE			
52	06/10/2008	ISSUE REVISION COMPLETED			
51	06/10/2008	DOCUMENT VERIFICATION			
50	06/10/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
49	06/10/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	06/10/2008	CASE DOCKETED TO EXAMINER IN GAU			
47	06/09/2008	NOTICE OF ALLOWABILITY			
46	04/08/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	04/08/2008	REFERENCE CAPTURE ON IDS			
44	04/08/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	05/01/2008	DATE FORWARDED TO EXAMINER			
42	04/08/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
41	05/01/2008	DISPOSAL FOR A RCE / CPA / R129			
40	04/21/2008	FINISHED INITIAL DATA CAPTURE			
39	04/08/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	04/08/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	04/08/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
36	02/11/2008	EXPORT TO INITIAL DATA CAPTURE			
35	02/06/2008	MAIL NOTICE OF ALLOWANCE			
34	02/05/2008	ISSUE REVISION COMPLETED			
33	02/05/2008	DOCUMENT VERIFICATION			
32	02/05/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
31	02/04/2008	NOTICE OF ALLOWABILITY			
30	11/07/2007	PARALEGAL TD ACCEPTED			
29	10/25/2007	TERMINAL DISCLAIMER FILED		0	27
28	11/06/2007	DATE FORWARDED TO EXAMINER			
27	10/25/2007	RESPONSE AFTER NON-FINAL ACTION			
26	08/10/2007	MAIL NON-FINAL REJECTION	661		-1
25	07/23/2007	NON-FINAL REJECTION			
24	03/30/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	07/14/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	03/12/2007	CASE DOCKETED TO EXAMINER IN GAU			
21	08/07/2006	PRELIMINARY AMENDMENT			
19.7	07/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	07/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	07/14/2006	PRELIMINARY AMENDMENT			
17.7	03/30/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	03/30/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
15	02/10/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	08/18/2004	PRELIMINARY AMENDMENT			
13	02/10/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	02/04/2005	APPLICATION RETURN FROM OIPE			

11	02/04/2005	APPLICATION RETURN TO OIPE			
10	02/04/2005	APPLICATION DISPATCHED FROM OIPE			
9	02/04/2005	APPLICATION IS NOW COMPLETE			
8	01/14/2005	ADDITIONAL APPLICATION FILING FEES			
7	01/14/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	11/15/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	11/04/2004	CLEARED BY OIPE CSR			
3	11/04/2004	CASE CLASSIFIED BY OIPE			
2	11/02/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/18/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 04/21/2010

Applicant	: Philip G. Heasley	: DECISION ON REQUEST FOR
Patent Number	: 7624068	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/920,398	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1063** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

19 JUL 2005

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Mark J. Itri
18191 Von Karman Ave., Suite 400
Irvine, CA 92312-7107

In re Application of	:
Onishi	: DECISION ON
Application No.: 10/920,409	: PETITION
Filing Date: 18 August 2004	: UNDER 37 CFR 1.182
For: IRONLESS AC LINEAR MOTOR	:

This decision is in response to applicant's "PETITION UNDER 35 U.S.C. § 1.182 TO CONVERT AN APPLICATION FILED UNDER 35 U.S.C. § 111(A) TO A NATIONAL STAGE APPLICATION FILED UNDER 35 U.S.C. § 371." The $400 petition fee has been paid.

BACKGROUND

On 05 November 2003, applicant filed international application PCT/JP03/14105 that claimed priority of an earlier Japanese application which was filed 05 November 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 May 2004. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 05 May 2005.

On 18 August 2004, applicant filed a transmittal letter for the filing of a United States patent application which was accompanied by, *inter alia*, a copy of the application, an information disclosure statement and the filing fee of $810. These papers were assigned application number 10/920,409. The transmittal letter indicated that the application was being filed under 37 CFR 1.53(b).

On 03 May 2005, applicant filed the current petition asking that the application be converted to a filing under 35 U.S.C. 371.

DISCUSSION

It is noted that while the application papers filed 18 August 2005 contained instructions to treat the submission as a filing under 37 CFR 1.53(b). Further, the oath/declaration claim foreign priority to the international application. Accordingly, the submission was properly treated as a filing under 35 U.S.C. 111(a). See 37 CFR 1.495(g).

U.S. Statutes and Regulations do not make specific provision for the requested action and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available. Petitioner has not provided such a showing.

CONCLUSION

For reasons above, the petition is hereby **DISMISSED** without prejudice.

Applicant may amend the application to claim benefit to the international application under 35 U.S.C. 120, since this application and the PCT application were co-pending. See 37 CFR 1.78.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Debra S. Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

DSB/RC:dsb
Telephone: (571) 272-3280
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 2 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WELSH & FLAXMAN LLC
2450 CRYSTAL DRIVE
SUITE 112
ARLINGTON VA 22202

In re Application of :
Christopher J. Vitito :
Application No. 10/920,425 :
Filed: August 18, 2004 :
For: **AUTOMOBILE ENTERTAINMENT SYSTEM** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed November 30, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

MAILED

JUN 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Christopher J. VITITO	:	
Application No. 10/920,425	:	DECISION ON PETITION
Filed: August 18, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **VIT-004**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 6, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 7, 2008. *See* MPEP 1215.04.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief with fee of $540, (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571)272-7253.

This application is being referred to Technology Center AU 2836 for appropriate action by the Examiner in the normal course of business on the reply received May 26, 2010.

Thurman K. Page
Petitions Examiner
Office of Petitions

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SUITE 112
ARLINGTON VA 22202

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FEB - 9 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Christopher J. Vitito :
Application No. 10/920,430 :
Filed: August 18, 2004 :
For: **AUTOMOBILE ENTERTAINMENT SYSTEM** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed November 30, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

WELSH & FLAXMAN LLC
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SUITE 112
ARLINGTON VA 22202

In re Application of
Christopher J. Vitito
Application No. 10/920,431
Filed: August 18, 2004
For: **AUTOMOBILE ENTERTAINMENT SYSTEM**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed November 30, 2004 under MPEP § 1002.02(c) which is treated as a petition pursuant to Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
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11TH FLOOR
ARLINGTON, VA 22203

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OFFICE OF PETITIONS

In re Application of
Stephen A. Locarnini et al
Application No. 10/920,462
Filed: August 18, 2004
Attorney Docket No. BJS-2551-139

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed September 12, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 15, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1648 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/920,464	08/18/2004	2882	770	16DT-JP04024	8	16	3

CONFIRMATION NO. 7728

CORRECTED FILING RECEIPT

OC000000014863462

38077
PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

Date Mailed: 01/03/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Masahiro Moritake, Tokyo, JAPAN;
George Edward Possin, Niskayuna, NY;
Gregory Scott Zeman, Waukesha, WI;

Power of Attorney:

Henry Policinski–26621
John Beulick–33338
Carl Horton–34622
Dean Small–34730
Patrick Rasche–37916
Peter Voegel–41363
Scott Hayden–41821
Robert Reeser III–45548
Michael Della Penna–45697
Phillip Shipley–51357

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 10/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/920,464

Projected Publication Date: 02/23/2006

Non-Publication Request: No

Early Publication Request: No

Title

Light detector, radiation detector and radiation tomography apparatus

Preliminary Class

378

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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BEIRNE MAYNARD & PARSONS
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HOUSTON, TX 77056-3000

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DEC 1 6 2005

OFFICE OF PETITIONS

In re Application of :
Robert G. Neal Jr. :
Application No. 10/920,467 : ON PETITION
Filed: August 18, 2004 :
Attorney Docket No. 004224/040676 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 27, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed November 15, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 16, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

As to item (1), the Office acknowledges the required surcharge under 37 CFR 1.16(e) listed on the "Notice to File Missing Parts" and a Power of Attorney. However, there is no indication that an oath or declaration has been submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BEIRNE MAYNARD & PARSONS
STE. 2500
1300 POST OAK BLVD.
HOUSTON, TX 77056-3000

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert G. Neal Jr.	:	
Application No. 10/920,467	:	ON PETITION
Filed: August 18, 2004	:	
Attorney Docket No. 004224/040676	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAMES R. CYPHER
405 14TH STREET
SUITE 1607
OAKLAND CA 94612

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OCT 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Steven E. Pryor	:	
Application No. 10/920,469	:	DECISION ON PETITION
Filed: August 17, 2004	:	
Attorney Docket No. SST/1299	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 23, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on April 24, 2008. A Notice of Abandonment was mailed August 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110.00 three month extension of time fee submitted with the petition on October 6, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 3635 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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130 WOODBURY ROAD
WOODBURY, NY 11797

In re Application of	:	
Noah Silverman	:	
Application No. 10/920,481	:	DECISION ON PETITION
Filed: August 18, 2004	:	TO WITHDRAW
Attorney Docket No. 8051-2 CON	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed June 15, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because attorney was not appointed by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: NOAH SILVERMAN
8217 BEVERLY BOULEVARD
SUITE 6
LOS ANGELES, CA 90048

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

In re Application of

Noah Silverman
Application No. 10/920,481
Filed: November 17, 2008
Attorney Docket No. S50925.1010.1

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 13, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: NOAH SILVERMAN
8217 BEVERLY BOULEVARD
SUITE 6
LOS ANGELES, CA 90048

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Bib Data Sheet

CONFIRMATION NO. 8360

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/920,481	08/18/2004 RULE	707	2164	

APPLICANTS

Noah Silverman, New York, NY;

**** CONTINUING DATA ****************************

This application is a CON of 09/849,290 05/04/2001 ABN

**** FOREIGN APPLICATIONS ***********************

IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** SMALL ENTITY **
** 11/20/2004

Foreign Priority claimed	☐ yes ☐ no	STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
35 USC 119 (a-d) conditions met	☐ yes ☐ no ☐ Met after Allowance	NY	4	20	2
Verified and Acknowledged	Examiner's Signature Initials				

ADDRESS

Noah Silverman
8217 Beverly Boulevard Suite 6
Los Angeles, CA90048

TITLE

Method and system for detecting unauthorized trademark use on the internet

FILING FEE RECEIVED		
385	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

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JAN 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Lee et al.	:	
Application No. 10/920,482	:	DECISION ON PETITION
Filed: 18 August, 2004	:	
Attorney Docket No. 5649-1378	:	

This is a decision on the petition filed on 3 January, 2005, requesting that the above-identified application be accorded a filing date which is treated as a petition requesting that above-identified application, including six (6) sheets of drawings, be accorded a filing date of 18 August, 2004.

The petition is granted.

On 18 August, 2004, the application was filed.

On 5 November, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that application should reconsider whether drawings were necessary under 35 U.S.C. § 113 (first sentence). The Notice stated that the filing date would be the date of receipt of the missing drawings. A two (2)-month period for reply was set.

In response, on 3 January, 2005, the present petition and a copy of six (6) sheets of drawings, was filed. Petitioners argue that six (6) drawing sheets were filed with the other application papers on 18 August, 2004, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 08/18/04 containing the above-identified application number, and identifies the application by the first named inventor's last name and attorney docket number, and acknowledges receipt of,

inter alia, 6 sheets of formal drawings. Petitioners' request that the application, including the six (6) sheets of drawings, be accorded a filing date of 18 August, 2004.

A review of the record reveals that no sheets of drawings received on 18 August, 2004, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 18 August, 2004, included six (6) sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including six (6) sheets of drawings, is entitled to a filing date of 18 August, 2004.

In view of the above, the petition is granted. The petition fee of $400.00 will be credited to counsel's deposit account, No. 50-0220.

The application will be processed with the copy of the six (6) sheets of drawings supplied on 3 January, 2005, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 18 August, 2004, using the application papers filed on that date, and the copy of six (6) sheets of drawings supplied with the present petition, and for an indication in Office records that six (6) sheets of drawings were present on filing.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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MAR 3 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Vinci Martinez Felix, et. al.	:	
Application No. 10/920,486	:	ON PETITION
Filed: August 18, 2004	:	
Attorney Docket No. FL0227USNA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on December 19, 2005, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed on May 31, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of a Declaration under 37 CFR 1.131 and $1,020 for a three (3) months extension of time, filed December 19, 2005. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Accordingly, since the $1,020 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being referred to Technology Center Art Unit 1713, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Vinci Martinez Felix	: DECISION ON REQUEST FOR
Patent Number	: 7557164	: RECALCULATION of PATENT
Issue Date	: 07/07/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/920,486	: OF WYETH
Filed	: 08/18/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JAN 5 2006

In re Application of SUZUKI, YUZURU
Appl. No.: 10/920,488
Filed: August 18, 2004
For: BOBBIN, MOTOR, AND METHOD OF WINDING MAGNET WIRE

WITHDRAWAL FROM ISSUE
37 CFR 1.313

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have not been paid. If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action. Any inquiry concerning this communication should be directed to Darren Schuberg at (571) 272-2044.

Richard Seidel
Director
Patent Examining Technology Center 2800

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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Arthur J. Behiel
SILICON EDGE LAW GROUP, LLP
6601 Koll Center Parkway
Suite 245
Pleasanton, CA 94566

MAIL

AUG 0 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Lawrence Lai
Application No. 10/920,508
Filed: August 17, 2004
For: MEMORY DEVICE HAVING STAGGERED MEMORY OPERATIONS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed May 16, 2005.

A Revocation Of Power Of Attorney Under 37 CFR § 1.36 was filed on July 12, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed the practitioners of SHEMWELL GREGORY & COURTNEY, LLP as the attorneys of record of the instant application. The Power Of Attorney filed on July 12, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by the SHEMWELL GREGORY & COURTNEY, LLP..

For the above stated reasons, the request is DISMISSED AS MOOT.

No further communication to you regarding this application will be made.

Michelle R. Carson for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

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AUG 2 9 2008

OFFICE OF PETITIONS

In re Patent: 7,368,593
Application No. 10/920,514
Filed: August 18, 2004
Attorney Docket No. 28726/39381A

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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JUN 26 2008

OFFICE OF PETITIONS

In re Application of
Vladimir Aparin
Application No. 10/920,526
Filed: August 17, 2004
Attorney Docket No. 040264

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 15, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be

entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2618 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/920,526	08/17/2004	2618	2240	040264	20	3

CONFIRMATION NO. 7256

CORRECTED FILING RECEIPT

23696
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

OC000000030656048

Date Mailed: 06/25/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Vladimir Aparin, San Diego, CA;

Power of Attorney: The patent practitioners associated with Customer Number 23696

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/544,282 02/11/2004
and claims benefit of 60/558,387 03/31/2004

Foreign Applications

If Required, Foreign Filing License Granted: 10/08/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/920,526**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

FIELD EFFECT TRANSISTOR AMPLIFIER WITH LINEARIZATION

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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NOV 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Vladimir Aparin	:	
Application Number: 10/920526	:	DECISION ON PETITION
Filing Date: 08/17/2004	:	
Attorney Docket Number: 040264	:	
	:	

This is a decision on the petition filed on September 10, 2009, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application became abandoned on October 2, 2008 for failure to submit the issue and publication fees in reply to the Notice of Allowance and Fee(s) Due mailed on July 1, 2008, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on October 28, 2008.

Petitioner has submitted a Request for Continued Examination (RCE) and an IDS as the submission under 37 CFR 1.114, and the fee for an RCE, as the required reply.

The petition must be dismissed because 37 CFR 1.137(c) states, in part, that in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. However, the issue fee has not been paid, and applicant's fee submission does not authorize the charging of the issue and publication fees, or fees under 37 CFR 1.18.

MPEP 711.03(c) states, in pertinent part, that while the revival of applications abandoned for failure to timely prosecute and for failure to timely pay the issue fee are incorporated together in 37 CFR 1.137, the statutory provisions for the revival of an application abandoned for failure to timely prosecute and for failure to timely submit the issue fee are mutually exclusive. See Brenner v. Ebbert, 398 F.2d 762, 157 USPQ 609 (D.C. Cir. 1968). 35 U.S.C. 151 authorizes the acceptance of a delayed payment of the issue fee, if the issue fee "is submitted ... and the delay in payment is shown to have been unavoidable." As such, even when an RCE is filed, the issue and publication fees must be paid in order to revive an application abandoned for failure to submit the issue and publication fees.

Accordingly, payment of the issue and publication fees is a prerequisite to revival of the application.

Petitioner should note that if the application is again allowed, the previously paid issue fee and publication fee will be reapplied toward the fees due at that time. See MPEP 1306.

Any renewed petition must be accompanied by payment of the issue and publication fees.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also by filed using the EFS-Web system of the USPTO.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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JUL 21 2010
OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of
VLADIMIR APARIN
Application No. 10/920,526
Filed: August 17, 2004
Attorney Docket Number: 040264

DECISION ON PETITION

This is a decision on the renewed petition filed on April 29, 2010, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 1, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed July 1, 2008. Accordingly, the date of abandonment of this application is October 2, 2008. On October 28, 2008, a Notice of Abandonment was mailed. The petition under 37 CFR 1.137(b) filed on September 10, 2009, was dismissed on November 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and the publication fee in the amount of $1810, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

reply to the Notice of Allowance and Fee(s) Due of July 1, 2008, is accepted as having been unintentionally delayed.

Petitioner has submitted a Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS) as the submission under 37 CFR 1.114, and the fee for an RCE, as the required reply.

The deposit account provided by the petitioner will be charged with the amount of $1,810.00 for the publication fee and issue fee.

The application file is being referred to Technology Center Director AU 2618 for appropriate action on the concurrently filed Request for Continued Examination and IDS.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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DUANE MORRIS LLP
IP DEPARTMENT
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PHILADELPHIA PA 19103-4196

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OFFICE OF PETITIONS

In re Application of	:	
Chenhui Wang	:	
Application No. 10/920,533	:	DECISION ON PETITION
Filed: 08/18/2004	:	
Attorney Docket No. E2079-00051	:	

This is a decision on the "PETITION TO ENTER AMENDMENT AND IN THE ALTERNATIVE FOR WITHDRAWAL OF THE HOLDING OF ABANDONMENT, filed August 2, 2006, which is being treated as a petition to withdraw the holding of abandonment.

On December 21, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. On August 2, 2006, petitioners filed the present petition, a copy of the original reply, a copy of the return postcard receipt with a date-stamp of March 21, 2006, and a print out from Public PAIR in association with this application.

Petitioners stated that the filing of the present petition is in response to a telephonic discussion held with Examiner Hoan C. Nguyen on August 2, 2006. Petitioners asserted that they filed a timely amendment in response to the nonfinal Office action. However, petitioners explained that they received a telephone call from Examiner Nguyen stating that the Office did not receive any reply and the subject application would become abandoned for failure to respond to an Office Action. Petitioners stated that the Public PAIR database indicated that the Office received an amendment on March 21, 2006, and associated it with the subject application; however, only two pages of the amendment (a transmittal and the first page of the amendment) appeared to be available via the Public PAIR database. Petitioners averred that the Office received the amendment, associated it with the application, but did not pass the entire amendment to the Examiner.

Upon a review of the record, it appears that petitioners submitted an amendment on March 21, 2006. However, the application number in the heading of the reply identified Application No. "10/290,533" rather than the intended Application No. "10/920,533." The remaining pages of the amendment were located in the "closed" documents in the Image File Wrapper of Application No. 10/290,533. A review of the correspondence indicates that the USPTO received an amendment (21 pages) on March

21, 2005, but it was not matched with the file due to petitioners' incorrect identification of the application number. The complete amendment was transferred from Application No. 10/290,533 to the intended Application No. 10/920,533.

Under current Office procedure, if a paper having an incorrect application number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

Nevertheless, the record does not indicate that the application was held abandoned. Furthermore, the Examiner did not issue a Notice of Abandonment. Therefore, the petition to withdraw the holding of abandonment is **dismissed as moot** because the application is currently pending due to the timely submission of the reply on March 21, 2005.

The matter is being referred to the Technology Center 2871.

Telephone inquiries regarding this decision maybe directed to the undersigned at (571) 272-3211. All other questions concerning the status of the application or the examination process should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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RICHARD C. CALDERWOOD
2775 NW 126TH AVE
PORTLAND, OR 97229-8381

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In re Application of
Enrique M. Stiles, et al.
Application No. 10/920,534
Filed: August 17, 2004
Attorney Docket No. STEP013

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed September 18, 2008.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before June 4, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed March 4, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 5, 2008. A Notice of Abandonment was mailed on June 27, 2008. On September 18, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $720 issue fee and the $300 publication fee; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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UNILEVER INTELLECTUAL PROPERTY GROUP
700 SYLVAN AVENUE,
BLDG C2 SOUTH
ENGLEWOOD CLIFFS, NJ 07632-3100

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DEC 30 2004

OFFICE OF PETITIONS

In re Application of	:
Rajesh Patel et al	:DECISION GRANTING FILING
Application No. 10/920,540	:DATE OF August 18, 2004
Filed: August 18, 2004	:
Attorney Docket No. J6926(C)	:

This is a decision on the petition under 37 CFR 1.10(c), filed November 5, 2004, requesting that the above-identified application be accorded a filing date of August 18, 2004, rather than the presently accorded date of August 19, 2004.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on August 18, 2004 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of the Intranet Track Confirmation which verifies the accept or pickup date as August 18, 2004 in Edgewater NJ, for Express Mail label No. ER414136809US. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal."

In view of the above, it is concluded that the application was deposited as "Express Mail" with the USPS on August 18, 2004.

The petition is **granted**.

The application file is being referred to the Office of Initial Patent Examination for processing with a filing date of **August 18, 2004,** and for the mailing of a corrected Filing Receipt.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (571) 272-3208.

Christina Donnell for

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

Mail Date: 04/20/2010

Applicant	: Susumu Kobayashi	: DECISION ON REQUEST FOR
Patent Number	: 7572539	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/920,546	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1328** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MICHAEL J. ARONOFF
TYCO ELECTRONICS CORPORATION
SUITE 140
4550 NEW LINDEN HILL ROAD
WILMINGTON DE 19808

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JAN 3 2005

OFFICE OF PETITIONS

In re Application of :
William Dean Haymond et al. :
Application No. 10/920,553 : DECISION GRANTING PETITION
Filed: August 18, 2004 :
Attorney Docket No. 18162 (AT 20958-1504) :

This is a decision on the "Petition to Correct Filing Date of Filed Application", filed November 15, 2004, which is treated under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of August 18, 2004, rather than the presently accorded filing date of August 17, 2004.

Petitioner alleges that the application was deposited in Express Mail service on August 18, 2004. While the date-in on the Express Mail Label indicates that Express Mail package EV504790254 was accepted by the USPS on August 17, 2004, the Express Mail Customer label has a USPS postmark of August 18, 2004.

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service was August 18, 2004 and therein, the application is entitled to a filing date of August 18, 2004.

It is therefore concluded that the incorrect filing date was occasioned by postal service error. However, in view of the evidence presented, (postmark) the petition is **GRANTED**. Therefore, no fees are due and none will be charged.

Additionally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The application is being returned to Office of Initial Patent Examination for reprocessing with a filing date of August 18, 2004, not August 17, 2004 and for issuance of a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 04/21/2010

Applicant	: Jeffrey E. Stahmann	: DECISION ON REQUEST FOR
Patent Number	: 7572225	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/920,569	: OF WYETH
Filed	: 08/17/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 05/18/2010

Applicant : Jeffrey E. Stahmann
Patent Number : 7572225
Issue Date : 08/11/2009
Application No : 10/920,569
Filed : 08/17/2004

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **1293** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA deterimation in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154(b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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53 W. JACKSON BLVD., SUITE 1352
CHICAGO IL 60604-3787

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OFFICE OF PETITIONS

In re Application of

FACKEMAYER, Jonathan R. O. et al.
Application No. 10/920,573
Filed: August 18, 2004
Attorney Docket No. **0261-0001**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 23, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by John Linzer on behalf of all attorneys of record who are associated with customer No. 33297. All attorneys/agents associated with the Customer Number 33297 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Jonathan R. O. Fackelmayer at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **JONATHAN R. O. FACKELMAYER**
750 NORTH RUSH STREET, APT. # 2901
CHICAGO IL 60611

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OFFICE OF PETITIONS

Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

In re Application of	:	
Donald James Macleod et al.	:	
Application No. 10/920,582	:	DECISION ON PETITION
Filed: August 17, 2004	:	TO WITHDRAW
Attorney Docket No. 8209.005.DVUS00	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 8, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on June 29, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Seagate Technology LLC**
c/o Novak Druce & Quigg LLP
1000 Louisiana, Suite 5350
Houston, TX 77002

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 04/21/2010

Applicant	: Vadim Boguslavskiy	: DECISION ON REQUEST FOR
Patent Number	: 7666323	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/920,589	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **361** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JAN 23 2006

Director's Office
Group 3700

Robert M. Hunter PLLC
P.O. Box 2709
Kamuela, HI 96743

In re Application of :
Pamela F. Cushnie :
Serial No. 10/920,594 : DECISION ON PETITION
Filed: August 17, 2004 : TO MAKE SPECIAL
For: BEVERAGE COOLING APPARATUS AND METHOD

Applicant's petition, filed December 13, 2005, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection, which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700
571-272-2975

rt/ 1/18/06

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MORRISON & FOERSTER, LLP
755 Page Mill RD
Palo Alto, CA 94304-1018

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SEP 1 4 2005

Technology Center 2100

In re Application of:
Thomas H. SPEETER, et al.
Application No. 10/920,600
Filed: August 17, 2004
For: CONFIGURATION MANAGEMENT ARCHITECTURE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed January 28, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal is the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 10.40(a) further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the U.S. Patent and Trademark Office (Office) will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Sean M. Fitzgerald
3182 Campus Drive #342
San Mateo, CA 94403-3123

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JONES DAY for
Isis Pharmaceuticals, Inc.
222 East 41st Street
New York NY 10017-6702

MAILED

JUN 28 2010

OFFICE OF PETITIONS

In re Application of :
Crooke, et al. :
Application No. 10/920,612 : ON APPLICATION FOR
Filed: August 17, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No.DOC-0216US. :
C1/ISIS.3CP1C

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed March 29, 2010. Applicants submit that the patent term adjustment to be indicated on the patent is four hundred and forty-two (442) days, not fifteen (15) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on July 1, 2009.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 10/6/09

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/920636 Patent No.: 7462361B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
~~703-756-1591~~
571.272.0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____ **SPE** _____ **Art Unit**

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Alexandria, Virginia 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: David R. Walt	: DECISION ON REQUEST FOR
Patent Number	: 7622294	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/920,637	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **311** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

::ODMA\MHODMA\iManage;368898;1
DJT/MBS/ecl
January 16, 2003

COPY FOR CONTINUING APPLICATION

PATENT APPLICATION
Attorney's Docket No.: 2479.2030-003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Bing Chiang, Kenneth M. Gainey and James A. Proctor, Jr.		
Application No.:	10/234,036	Group:	2821
Filed:	August 30, 2002	Examiner:	Not assigned
Confirmation No.:	8597		
For:	Method and Apparatus for Frequency Selective Beam Forming		

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Assistant Commissioner for Patents, P.O. Box 2327, Arlington, VA 22202

on Feb 14, 2003 Elaine Leahy
Date Signature

Elaine Leahy
Typed or printed name of person signing certificate

PETITION UNDER 37 C.F.R.§ 1.47(a) AND TRANSMITTAL OF DECLARATION

Box MISSING PARTS
Assistant Commissioner for Patents
P.O. Box 2327
Arlington, VA 22202

Sir:

Tantivy Communications, Inc., and Bing Chiang hereby petition that the above-captioned application be accepted under 37 C.F.R.§ 1.47(a). The petition fee required under 37 C.F.R.§ 1.17(h) is provided herewith.

Two of the inventors, Kenneth M. Gainey and James A. Proctor, Jr., have not returned a signed Declaration for the above-referenced patent application despite attempts.

On August 30, 2001, the application materials for the above-referenced application, including the specification, claims, abstract, and informal drawings ("the application papers"), were deposited with the U.S. Postal Service under 37 C.F.R. § 1.10.

On October 9, 2002, I forwarded a copy of all the application papers, including a Declaration and Assignment form to Mr. Kenneth M. Gainey and Mr. James A. Proctor, Jr., at their last known addresses. On November 19, 2002, I forwarded these documents a second time

to Mr. Kenneth Gainey, and, on December 10, 2002, I sent a second copy to Mr. James A. Proctor, Jr. Both sets of documents were sent to these two inventors by Certified Mail, return receipt requested. Copies of my letters are attached hereto as Exhibits A and B.

Mr. Gainey and Mr. Proctor as of this date have still not returned the executed documents despite attempts to obtain their signatures.

The last known address of Kenneth M. Gainey is:

441 Thrush Drive
Satellite Beach, Florida 32927

The last known address of James A. Proctor, Jr., is:

258 Sea View Street
Melbourne Beach, Florida 32940

The executed Declaration for the other inventor, Bing Chiang, is being submitted herewith in response to the Notice to File Missing Parts dated September 20, 2002. A copy of Form PTO-1533 is enclosed.

A three-month extension of time to respond to the Notice to File Missing Parts is requested. The attached check in the amount of $2768.00 includes payment of the filing fees, surcharge, fee required under 37 C.F.R. §1.17(h), and fee for extension of time.

Please charge any additional fees due in this matter to Applicants' Attorney Deposit Account No. 08-0380. Two copies of this letter are enclosed for accounting purposes.

Respectfully submitted,

HAMILTON, BROOK, SMITH AND REYNOLDS, P.C.

By Mark B Solomon

Mark B. Solomon
Registration No. 44,348
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, Massachusetts 01742-9133
Dated: 2/14/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

COPY FOR CONTINUING APPLICATION

Paper No. 7

HAMILTON BROOK SMITH & REYNOLDS P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

COPY MAILED

APR 1 8 2003

OFFICE OF PETITIONS

In re Application of Bing Chiang et al Application No. 10/234,036 Filed: August 30, 2002 For: METHOD AND APPARATUS FOR FREQUENCY SELECTIVE BEAM FORMING	DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a), filed February 20, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to the Office of Initial Patent Examination.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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APR 2 4 2003
HAMILTON, BROOK
SMITH & REYNOLDS, P.C.

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Alexandria, VA 22313-1450
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Hamliton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P.O. Box 9133
Concord, MA 01742-9133

COPY MAILED

JUL 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Bing Chiang et al.	:	
Application No. 10/920,693	:	DECISION ON PETITION
Filed: August 17, 2004	:	TO WITHDRAW
Attorney Docket No. TAN-2-1527.03.US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 11, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Hamilton, Brook, Smith & Reynolds, P.C. has been revoked by the assignee of the patent application on April 26, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Volpe and Koenig, P.C.**
Dept. ICC
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

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MARTIN & HENSON, P.C.
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD CO 80226

COPY MAILED

FEB 21 2007

OFFICE OF PETITIONS

In re Application of	:	
James Walter Conley, et al.	:	
Application No. 10/920,699	:	DECISION ON PETITION
Filed: August 17, 2004	:	TO WITHDRAW
Attorney Docket No. 2080	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 1, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael R. Henson on behalf of all attorneys of record who are associated with customer No. 24264.

All attorneys/agents associated with the Customer Number 24264 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending office actions at the present time.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SYNTEX, INC.
C/O Barbara Loscalzo
Vice President and General Counsel
Lockheed Martin Information & Technology Services
2339 Route 70 West
Cherry Hill, NJ 08002

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/920,699	08/17/2004	James Walter Conley	2080

CONFIRMATION NO. 8476

OC000000022537875

OC000000022537875

24264
MARTIN & HENSON, P.C.
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD, CO 80226

Date Mailed: 02/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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David W. Carrithers
CARRITHERS LAW OFFICE, PLLC
One Paragon Centre
6060 Dutchman's Lane, Suite 140
Louisville KY 40205

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DEC 0 1 2006
OFFICE OF PETITIONS

In re Application of Truax Application No. 10/920,702 Filed: August 18, 2004 Attorney Docket No. AC 148/2000 For: SURVEY MARKER	: : : : :	ON PETITION

This is a decision on the petition, filed August 28, 2006 (certificate of mailing date August 25, 2006), under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the October 4, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on January 5, 2006. A Notice of Abandonment was mailed on April 13, 2006.

Applicant has submitted an amendment in reply to the October 4, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 4, 2005 non-final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2859 for consideration of the amendment filed on August 28, 2006 (certificate of mailing date August 25, 2006.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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4525 Glen Meadows Place
Bellingham, WA 98226

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OFFICE OF PETITIONS

In re Application of
Lloyd Levy et al.
Application No. 10/920,717
Filed: August 16, 2004
Attorney Docket No. 3123-587

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 16, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Customer Number 32093 has been revoked by the assignee of the patent application on November 28, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Fellers, Snider, Blankenship, Bailey & Tippens, P.C.**
100 North Broadway, Suite 1700
Oklahoma City, OK 73102-8820

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/920,717	08/16/2004	Lloyd Levy	3123-587

CONFIRMATION NO. 8165

OC000000022483758

OC000000022483758

32093
HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM, WA 98226

Date Mailed: 02/13/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/28/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Terri S Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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LINER YANKELEVITZ SUNSHINE AND REGENSTREIF
1100 GLENDON AVENUE, 14TH FLOOR
LOS ANGELES, CA 90024

COPY MAILED
MAY 26 2006
OFFICE OF PETITIONS

In re Application of	:	
James K. Leimkuhler	:	
Application No. 10/920,721	:	DECISION ON PETITION
Filed: August 18, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 41015.900100	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR § 1.102(d), filed April 28, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR § 1.102(d) and MPEP § 708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (c) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1761 for action on the merits commensurate with decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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Law Office of ROBERT C. KLINGER
2591 Dallas Parkway
Suite 300
FRISCO TX 75034

MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of
Hutchinson, et al.
Application No.: 10/920,743
Filed: August 18, 2004
Attorney Docket No: 106923.00064

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed September 14, 2009.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed November 9, 2007. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was not received within the allowable period and the application became abandoned on February 10, 2008. A Notice of Abandonment was mailed on June 13, 2008.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (3) above.

As to Item (3), the *Manual of Paten Examining Procedure*, Section 7711.03(c) provides, in pertinent part, that:

> The Office does not generally question whether there has been an intentional or otherwise impermissible delay in filing an initial petition pursuant to 37 CFR 1.137(a) or (b), when such petition is filed: (A) within 3 months of the date the applicant is first notified that the application is abandoned; **and** (2) within 1 year of the date of abandonment of the application. Thus, an applicant seeking revival of an abandoned application is advised to file a petition pursuant to 37 CFR 1.137 within 3 months of the first notification that the application is abandoned to avoid the question of intentional delay being raised by the Office (or by third parties seeking to challenge any patent issuing from the application).
>
> Where a petition pursuant to 37 CFR 1.137(a) or (b) is not filed within 3 months of the date the applicant is first notified that the application is abandoned, the Office may consider there to be a question as to whether the delay was unavoidable or unintentional. In such instances,
>
> (A) the Office will require a showing as to how the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(a) petition was filed was "unavoidable"; or
>
> (B) the Office may require further information as to the cause of the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(b) petition was filed, and how such delay was "unintentional."
>
> To avoid delay in the consideration of the merits of a petition under 37 CFR 1.137(a) or (b) in instances in which such petition was not filed within 3 months of the date the applicant was first notified that the application was abandoned, applicants should include a showing as to how the delay between the date the applicant was first notified by the Office that the application was abandoned and the filing of a petition under 37 CFR 1.137 was (A) "unavoidable" in a petition under 37 CFR 1.137(a); or (B) "unintentional" in a petition under 37 CFR 1.137(b).

It appears that petitioner should have been aware that the application was abandoned on, or about June 13, 2008, yet the instant petition was not filed until more than a year later later. Petitioner did not provide not explanation for delay in filing the instant petition and how the delay was unintentional. Accordingly, the renewed petition must be accompanied by an explanation for said delay including, but not limited to, the considerations provided in MPEP § 711.03(c) cited above.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office

Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Law Office of ROBERT C. KLINGER
2591 Dallas Parkway
Suite 300
FRISCO TX 75034

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JUN 07 2010
OFFICE OF PETITIONS

In re Application of
Hutchinson, et al.
Application No.: 10/920,743
Filed: August 18, 2004
Attorney Docket No. **106923.00064**

ON PETITION

This is in response to the renewed petition under 37 CFR 1.137(b) filed March 17, 2010.

The petition under 37 CFR 1.137(b) is **granted**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 9, 2007, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on February 10, 2008. A Notice of Abandonment was mailed on June 13, 2008.

The amendment filed September 14, 2009, is noted.

The request for an extension of time within the third month made May 18, 2010, is noted but cannot be granted as the request was made outside the maximum statutory period for reply to the non-final Office action. The amount of $555.00 will be refunded, in due course.

This application is being forwarded to Technology Center 2600, GAU 2612 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEBRA M. PARRISH, ESQ.
PARRISH LAW OFFICES
615 WASHINGTON ROAD, SUITE 200
PITTSBURGH PA 15228

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of
Li, et al.
Application No. 10/920,747
Filed: 18 August, 2004
Attorney Docket No. NANO-8

DECISION ON PETITION

This is a decision on the petition filed on 12 December, 2008, under 37 C.F.R. §1.47.

The petition as considered under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

Petitioner does not seem to have worked through the requirements of the petition, as set forth above, in satisfaction of those requirements. And, in particular, Petitioner, *inter alia*, has not as of this writing satisfied the showing of the transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor(s) at the reasonably believed to be last known/valid/current address of the non-signing inventor(s). (*See, generally:* MPEP §409.03, and

§409.03(a)—the applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor to ensure transmittal to the non-signing inventors a copy of the entire application (description, claims, abstract, drawings) with a copy of the transmittal letter) to the non-signing inventor(s).)

Further, Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.

BACKGROUND

The record indicates:

Following deposit of the instant application on 18 August, 2004, Petitioner filed a petition pursuant to 37 C.F.R. §1.48, seeking to alter the inventive entity with the addition of Srikanth Raghunathan as co-inventor with the previously named inventors Mei Li and Qiping Zhong. For whatever reason, that matter was not addressed by the Examiner until a decision dismissing that petition mailed on 12 August, 2008. Thereafter, in an ex parte Quayle action of 19 August, 2008, the Examiner required a new oath/declaration.

On 12 December, 2008, Petitioner Debra M. Parrish (Reg. No. 38,032) filed a petition pursuant to 37 C.F.R. §1.47, but accompanied by letters dated 6 February, 2007, and with an oath/declaration dated 18 August, 2004, that identifies only Mei Li and Qiping Zhong as members of the inventive entity and does not include Srikanth Raghunathan as co-inventor . It is noted that an oath/declaration listing all three persons was submitted on 10 September, 2007, apparently signed by Srikanth Raghunathan (for himself and on behalf of the apparently non-signing co-inventors Mei Li and Qiping Zhong, and the Office inquires of Petitioner if this is the oath/declaration that it is Petitioner's intent to have considered. Further, what also is not clear is that: (a) Petitioner has made a diligent search in an effort to identify a reasonably believed to be last known/valid/current address for Mei Li and Qiping Zhong (see above) to be provided to the Office; and (b) that the entire application (description, claims, abstract, drawings) was sent to Mei Li and Qiping Zhong with the oath/declaration (submitted on 10 September, 2007) to be executed by them. (The applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" (i.e., . "a *bona fide* attempt") has been made in attempting to find or reach the non-signing inventor.)

As set forth above, any renewed petition **must** clarify these items.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts

of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant petition under 37 C.F.R. §1.47(a) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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JUN 1 5 2009

OFFICE OF PETITIONS

In re Application of
Li, et al.
Application No. 10/920,747
Filed: 18 August, 2004
Attorney Docket No. NANO-8

DECISION ON PETITION

This is a decision on the petition filed on 18 May, 2009, under 37 C.F.R. §1.47.

The petition as considered under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

It is noted that the Petitioner appears not to have submitted a copy of the oath/declaration bearing the signature of the person Petitioner states that she wishes to add as an inventor, to wit: Srikanth Raghunathan. As of this writing the only oath/declaration previously submitted was that of the inventive entity of Mei Li and Qiping Zhong. Now Petitioner avers that the inventive entity is that of Mei Li, Qiping Zhong, and Srikanth Raghunathan—however, the only copy of the

oath/declaration setting forth that structure for the inventive entity bears only the signature of Mei Li.

Before the petition pursuant to , 37 C.F.R. §1.47(a) can be considered further, a copy of the oath/declaration with the inventive entity structure of Mei Li, Qiping Zhong, and Srikanth Raghunathan must be submitted with the signature of Srikanth Raghunathan.

Petitioner does not seem to have worked through the requirements of the petition, as set forth above, in satisfaction of those requirements. And, in particular, Petitioner, *inter alia*, has not as of this writing satisfied the showing of the transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor(s) at the reasonably believed to be last known/valid/current address of the non-signing inventor(s). (*See, generally:* MPEP §409.03, and §409.03(a)—the applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor to ensure transmittal to the non-signing inventors a copy of the entire application (description, claims, abstract, drawings) with a copy of the transmittal letter) to the non-signing inventor(s).)

Further, Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.

BACKGROUND

The record indicates:

Following deposit of the instant application on 18 August, 2004, Petitioner filed a petition pursuant to 37 C.F.R. §1.48, seeking to alter the inventive entity with the addition of Srikanth Raghunathan as co-inventor with the previously named inventors Mei Li and Qiping Zhong. For whatever reason, that matter was not addressed by the Examiner until a decision dismissing that petition mailed on 12 August, 2008. Thereafter, in an ex parte Quayle action of 19 August, 2008, the Examiner required a new oath/declaration.

On 12 December, 2008, Petitioner Debra M. Parrish (Reg. No. 38,032) filed a petition pursuant to 37 C.F.R. §1.47, but accompanied by letters dated 6 February, 2007, and with an oath/declaration dated 18 August, 2004, that identifies only Mei Li and Qiping Zhong as members of the inventive entity and does not include Srikanth Raghunathan as co-inventor . It is noted that an oath/declaration listing all three persons was submitted on 10 September, 2007, apparently signed by Srikanth Raghunathan (for himself and on behalf of the apparently non-signing co-inventors Mei Li and Qiping Zhong, and the Office inquires of Petitioner if this is the oath/declaration that it is Petitioner's intent to have considered. Further, what also is not clear is that: (a) Petitioner has made a diligent search in an effort to identify a reasonably believed to be last known/valid/current address for Mei Li and Qiping Zhong (see above) to be provided to the Office; and (b) that the entire application (description, claims, abstract, drawings) was sent to Mei Li and Qiping Zhong with the oath/declaration (submitted on 10 September, 2007) to be executed by them. (The applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" (i.e., .

"a *bona fide* attempt") has been made in attempting to find or reach the non-signing inventor.). The petition was dismissed on 16 March, 2009.

On 18 May, 2009, Petitioner re-advanced her petition pursuant to 37 C.F.R. §1.47, however, as indicated above, *Petitioner appears not to have submitted a copy of the oath/declaration bearing the signature of the person Petitioner states that she wishes to add as an inventor, to wit: Srikanth Raghunathan. As of this writing the only oath/declaration previously submitted was that of the inventive entity of Mei Li and Qiping Zhong. Now Petitioner avers that the inventive entity is that of Mei Li, Qiping Zhong, and Srikanth Raghunathan—however, the only copy of the oath/declaration setting forth that structure for the inventive entity bears only the signature of Mei Li. Before the petition pursuant to , 37 C.F.R. §1.47(a) can be considered further, a copy of the oath/declaration with the inventive entity structure of Mei Li, Qiping Zhong, and Srikanth Raghunathan must be submitted with the signature of Srikanth Raghunathan—for it is Mei Li and Srikanth Raghunathan who sign the oath/declaration for themselves and on behalf of the non-signing inventor Qiping Zhong.*

As set forth above, any renewed petition **must** clarify these items.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant petition under 37 C.F.R. §1.47(a) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

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/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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In re Application of
Li, et al.
Application No. 10/920,747
Filed: 18 August, 2004
Attorney Docket No. NANO-8

DECISION ON PETITION

This is a decision on the petition filed on 17 August, 2009, under 37 C.F.R. §1.47.

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Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

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> ***NOTE:*** *It is noted that the file contains three (3) different partially executed oath/declaration forms—one identifying the inventive entity of Mei Li and Qiping Zhong, and two identifying the inventive entity as Mei Li, Qiping Zhong and Srikanth Raghunathan. Petitioner must present a single form and make a showing as to the*

satisfaction of the requirements under the rule, and as outlined above, as to the non-signing inventors in that oath/declaration form.

Petitioner does not seem to have worked through the requirements of the petition, as set forth above, in satisfaction of those requirements. And, in particular, Petitioner, *inter alia*, has not as of this writing satisfied the showing of the transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor(s) at the reasonably believed to be last known/valid/current address of the non-signing inventor(s). (*See, generally:* MPEP §409.03, and §409.03(a)—the applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor to ensure transmittal to the non-signing inventors a copy of the entire application (description, claims, abstract, drawings) with a copy of the transmittal letter) to the non-signing inventor(s).)

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On 12 December, 2008, Petitioner Debra M. Parrish (Reg. No. 38,032) filed a petition pursuant to 37 C.F.R. §1.47, but accompanied by letters dated 6 February, 2007, and with an oath/declaration dated 18 August, 2004, that identifies only Mei Li and Qiping Zhong as members of the inventive entity and does not include Srikanth Raghunathan as co-inventor . It is noted that an oath/declaration listing all three persons was submitted on 10 September, 2007, apparently signed by Srikanth Raghunathan (for himself and on behalf of the apparently non-signing co-inventors Mei Li and Qiping Zhong, and the Office inquires of Petitioner if this is the oath/declaration that it is Petitioner's intent to have considered. Further, what also is not clear is that: (a) Petitioner has made a diligent search in an effort to identify a reasonably believed to be last known/valid/current address for Mei Li (see above) to be provided to the Office; and (b) that the entire application (description, claims, abstract, drawings) was sent to Mei Li and Qiping Zhong with the oath/declaration (submitted on 10 September, 2007) to be executed by them. (The applicable statute (35 U.S.C.§116) requires that a "diligent effort" (i.e., . "a *bona fide* attempt") has been made in attempting to find or reach the non-signing inventor.). The petition was dismissed on 16 March, 2009.

On 18 May, 2009, Petitioner re-advanced her petition pursuant to 37 C.F.R. §1.47, however, as indicated above, *Petitioner appears not to have submitted a copy of the oath/declaration bearing the signature of the person Petitioner states that she wishes to add as an inventor, to wit: Srikanth Raghunathan. As of this writing the only oath/declaration previously submitted was that of the inventive entity of Mei Li and Qiping Zhong. Now Petitioner avers that the inventive entity is that of Mei Li, Qiping Zhong, and Srikanth Raghunathan—however, the only copy of the oath/declaration setting forth that structure for the inventive entity bears only the signature of Mei Li. Before the petition pursuant to , 37 C.F.R. §1.47(a) can be considered further, a copy of the oath/declaration with the inventive entity structure of Mei Li, Qiping Zhong, and Srikanth Raghunathan must be submitted with the signature of Srikanth Raghunathan—for it is Mei Li and Srikanth Raghunathan who sign the oath/declaration for themselves and on behalf of the non-signing inventor Qiping Zhong.* The petition was dismissed on 15 June, 2009.

On 17 August, 2009, Petitioner resubmitted the petition—however the focus of that submission was as to non-signing inventor Zhong and not as to the deficiency discussed above: i.e., the multiple oath/declaration forms, each partially executed and one of which details a different inventive entity from that of the other two and the lack of a showing as to or joinder of Mr. Raghunathan in the oath/declaration submitted on 18 May, 2009.[1]

As set forth above, any renewed petition **must** clarify these items.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The instant petition under 37 C.F.R. §1.47(a) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

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[1] As noted above, a grantable petition under 37 C.F.R. §1.47(a) requires: (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §115 and §116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

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Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] The regulations at 37 C.F.R. §1.2 provide:
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PATENT APPLICATION

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION ENTITLED: NANO-TALC WITH HYDROPHOBIC COATING	ATTORNEY DOCKET NO. NANO-8

As a below named inventor, I hereby declare that:
My residence/post office address and citizenship are as stated below next to my name;
I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

_____

the specification of which is attached hereto unless the following box is checked:
(x) was filed on August 18, 2004 as US Application Serial No. or PCT International Application Number 10/920,747 and was amended on _____ (if applicable).

OIPE MAY 1 8 2009 PATENT & TRADEMARK OFFICE

I hereby state that I have reviewed and understood the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose all information which is material to patentability as defined in 37 CFR 1.56.

POWER OF ATTORNEY:
As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) listed below to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Debra M. Parrish, Parrish Law Offices

Send Correspondence to:	Direct Telephone Calls To:
Debra M. Parrish, Parrish Law Offices 615 Washington Road, Suite 200 Pittsburgh, PA 15228	Debra M. Parrish (412) 561 6250

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Inventor: Mei Li **Citizenship:** United States
Residence: Westfield, Indiana
Post Office Address: 13679 Cunningham Drive, Westfield, Indiana 46074
Mei Li — 04/27/2009
Inventor's Signature **Date**

Full Name of Inventor: Qiping Zhong **Citizenship:** United States
Residence: San Jose, California
Post Office Address: 1392 Cabrillo Avenue, San Jose, California 95132-2209
_____ _____
Inventor's Signature **Date**

Full Name of Inventor: Srikanth Raghunathan **Citizenship:** United States
Residence: Irwin, Pennsylvania
Post Office Address: 406 Lorenzo Lane, Irwin, Pennsylvania 15642
_____ _____
Inventor's Signature **Date**

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Application No. 10/920,747
Filed: 18 August, 2004
Attorney Docket No. NANO-8

DECISION ON PETITION

This is a decision on the petition filed on 30 September, 2009, under 37 C.F.R. §1.47.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §115 and §116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

> **NOTE:** The final paragraph of the decision on petition (mailed on 11 September, 2009) stated that while telephone inquiries regarding the decision might be directed to the undersigned, nonetheless, "all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s)."
>
> Despite that caution, the petition submitted by Petitioner on 30 September, 2009, referred repeatedly to phone conversation(s) that Petitioner indicates was/were held with the Office wherein Petitioner is averred to have outlined this or that experience with regard to non-signing and/or signing inventors as well as Petitioner's plans to proceed in the

[1] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

matter. And this information is stated as though Petitioner obtained in conversation the authorization of the Office to act or not act in one manner or another.

Petitioner's references are improper under the Rules of Practice[2] and erroneous as a matter of fact.

The undersigned cautions all practitioners and *pro se* applicants at the outset of receiving a call that he speaks with them only under the condition that it is expressly clear that:

- they will be directed only to provisions of statute (35 U.S.C.), regulation (37 C.F.R.) and policy (MPEP); that their only authority to act are provisions of statute (35 U.S.C.), regulation (37 C.F.R.) and policy (MPEP); and

- no statement may be later referenced and/or is intended or shall be taken as advice, counsel, guidance other than to location and content of the provisions of provisions of statute (35 U.S.C.), regulation (37 C.F.R.) and policy (MPEP).

The petition as considered under 37 C.F.R. §1.47(a) is **GRANTED**.

Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.

BACKGROUND

The record indicates:

Following deposit of the instant application on 18 August, 2004, Petitioner filed a petition pursuant to 37 C.F.R. §1.48, seeking to alter the inventive entity with the addition of Srikanth Raghunathan as co-inventor with the previously named inventors Mei Li and Qiping Zhong. For whatever reason, that matter was not addressed by the Examiner until a decision dismissing that petition mailed on 12 August, 2008. Thereafter, in an ex parte Quayle action of 19 August, 2008, the Examiner required a new oath/declaration.

On 12 December, 2008, Petitioner Debra M. Parrish (Reg. No. 38,032) filed a petition pursuant to 37 C.F.R. §1.47, but accompanied by letters dated 6 February, 2007, and with an oath/declaration dated 18 August, 2004, that identifies only Mei Li and Qiping Zhong as members of the inventive entity and does not include Srikanth Raghunathan as co-inventor . It is noted that an oath/declaration listing all three persons was submitted on 10 September, 2007, apparently signed by Srikanth Raghunathan (for himself and on behalf of the apparently non-signing co-inventors Mei Li and Qiping Zhong, and the Office inquires of Petitioner if this is the

[2] *See*: 37 C.F.R. §1.2.

oath/declaration that it is Petitioner's intent to have considered. Further, what also is not clear is that: (a) Petitioner has made a diligent search in an effort to identify a reasonably believed to be last known/valid/current address for Mei Li (see above) to be provided to the Office; and (b) that the entire application (description, claims, abstract, drawings) was sent to Mei Li and Qiping Zhong with the oath/declaration (submitted on 10 September, 2007) to be executed by them. (The applicable statute (35 U.S.C.§116) requires that a "diligent effort" (i.e., . "a *bona fide* attempt") has been made in attempting to find or reach the non-signing inventor.). The petition was dismissed on 16 March, 2009.

On 18 May, 2009, Petitioner re-advanced her petition pursuant to 37 C.F.R. §1.47, however, as indicated above, Petitioner appears not to have submitted a copy of the oath/declaration bearing the signature of the person Petitioner states that she wishes to add as an inventor, to wit: Srikanth Raghunathan. As of this writing the only oath/declaration previously submitted was that of the inventive entity of Mei Li and Qiping Zhong. Now Petitioner avers that the inventive entity is that of Mei Li, Qiping Zhong, and Srikanth Raghunathan—however, the only copy of the oath/declaration setting forth that structure for the inventive entity bears only the signature of Mei Li. Before the petition pursuant to , 37 C.F.R. §1.47(a) can be considered further, a copy of the oath/declaration with the inventive entity structure of Mei Li, Qiping Zhong, and Srikanth Raghunathan must be submitted with the signature of Srikanth Raghunathan—for it is Mei Li and Srikanth Raghunathan who sign the oath/declaration for themselves and on behalf of the non-signing inventor Qiping Zhong. The petition was dismissed on 15 June, 2009.

On 17 August, 2009, Petitioner resubmitted the petition—this time with a supporting statement by Gary P Topolosky (reg. No, 31,888) —however the focus of that submission was as to non-signing inventor Zhong and not as to the deficiency discussed above: i.e., the multiple oath/declaration forms, each partially executed and one of which details a different inventive entity from that of the other two and the lack of a showing as to or joinder of Mr. Raghunathan in the oath/declaration submitted on 18 May, 2009.[3] As to the three (3) different partially executed oath/declaration forms—one identified the inventive entity of Mei Li and Qiping Zhong, and two identified the inventive entity as Mei Li, Qiping Zhong and Srikanth Raghunathan. Petitioners were told that they must present a single form and make a showing as to the satisfaction of the requirements under the rule, and as outlined above, as to the non-signing inventors in that oath/declaration form. The petition was dismissed on 11 September, 2009.

On 30 September, 2009, Petitioner Topolosky submitted a petition once again—the improper practice of referring to telephone conversation has already been addressed. Thereafter, Petitioner evidenced that a single form of the oath/declaration—that with the inventive entity of Mei Li, Srikanth Raghunathan. and Qiping Zhong—has been signed by all but Qiping Zhong, to whom the entire application (description, claims, abstract and drawings) was presented, and that he has failed to sign/join, and has refused to receive any further materials in this regard—noting the

[3] As noted above, a grantable petition under 37 C.F.R. §1.47(a) requires: (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §115 and §116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

earlier statement of Ms. Parrish. Thus, Petitioner demonstrated, *inter alia*, the non-signing inventor's constructive refusal to sign and so Petitioner's compliance with the requirements of a grantable petition under 37 C.F.R. §1.47(a): (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address. (Thus, Petitioner sought to satisfy the requirements pursuant to the Rule and the guidance in the Commentary at MPEP §409.03, and §409.03(a) et seq.)

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[4]

CONCLUSION

The instant petition under 37 C.F.R. §1.47(a) is **granted** (status is accorded pursuant to 37 C.F.R. §1.47(a).)

As provided in 37 C.F.R. §1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing in due course.

[4] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt

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QIPING ZHONG
1392 CABRILLO AVENUE
SAN JOSE, CA 95132

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OFFICE OF PETITIONS

In re Application of
Li, et al.
Application No. 10/920,747
Filed: 18 August, 2004
Attorney Docket No. NANO-8

COMMUNICATION

Dear Qiping Zhong:

You are named as an inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47 (Code of Federal Regulations), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as an inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Should you elect to join in the application, the contact information for Counsel of Record is set forth at the end of this Communication.

Should you seek to identify independent Counsel, you may find the Patent Attorneys/Agents Search engine of assistance (https://oedci.uspto.gov/OEDCI/).

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Telephone inquiries regarding this communication may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s) Moreover, the Office can neither advise you nor recommend Counsel in this matter.

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
DEBRA M. PARRISH, ESQ.
PARRISH LAW OFFICES
615 WASHINGTON ROAD, SUITE 200
PITTSBURGH PA 15228

[1] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt

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333 EARLE OVINGTON BLVD.
SUITE 702
UNIONDALE NY 11553

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OCT 15 2007
OFFICE OF PETITIONS

In re Application of	:	
Cho et al.	:	
Application No: 10/920785	:	DECISION
Filed: 08/18/2004	:	ON PETITION
Atty Docket No.:	:	
678-1246 (P11366)	:	

This is a decision on the Petition to Withdraw Holding of Abandonment Under 37 CFR §1.181, filed August 22, 2007.

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final office action, mailed April 19, 2006. The Office action set a three (3) month period for reply. No reply having been received, this application became abandoned on July 20, 2006. A Notice of Abandonment was mailed May 22, 2007.

The present petition

Applicant files the present petition and asserts that a timely reply to the Office action was filed on July 19, 2007. In support of this assertion, Applicant files a copy of a return receipt postcard which putatively evidences receipt of the response. Applicant also files a copy of the response which bears a Certificate of Mailing under 37 CFR 1.8.

A review of the copy of the reply filed with the present petition reveals that the serial number placed on the Amendment Transmittal Form was 60/495,916, and not 10/920,785. A review of the return receipt postcard also reveals that the serial number placed on the Amendment Transmittal Form was 60/495,916, and not 10/920,785.

A review of Application 60/495,916reveals that the amendment to the reply was placed in that file.

A review of the Certificate of Mailing reveals that it was executed by petitioner herein.

Conclusion

In view of the above, it is apparent that the response to the Office action was filed in this Office on July 19, 2007, and due to errors on the part of Applicant and this Office, was inadvertently misplaced. Accord MPEP 502[1].

Accordingly, the holding of abandonment is hereby withdrawn.

The reply filed in 60/495,916, have been removed and placed in 10/920,785. The application will be referred to Technology Center Art Unit 2617 for processing of the reply, and for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

[1] A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number.

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CST

10-5-07

In re application of Douglas T. Gjerde et al Serial No. 10/920,787 Filed: August 17, 2004 For: METHOD AND DEVICE FOR EXTRACTING AN ANALYTE	:	DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed on September 20, 2007 (Certificate of Transmission/Mailing) to make the above-identified application special on the basis of a biotechnology application filed by an applicant that is a small entity.

The petition to make the application special is **DENIED.**

REGULATION AND PRACTICE

Pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), all petitions to make special, except those based on applicant's health or age or the PPH pilot, filed on or after August 25, 2006 are required to comply with the requirements of petitions to make special under the accelerated examination program. Note that any petition to make special under MPEP § 708.02, based solely on subsection XII (applications relating to biotechnology filed by applicants who are small entities) was required to be filed prior to August 25, 2006.

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a) **on or after August 25, 2006**;
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;

3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because the application was not filed on or after August 25, 2006; the application, the petition and the required fees were not filed electronically using the USPTO's electronic filing system (EFS); and the application contains greater than 20 total claims. Furthermore, the petition to make special was not filed concurrently with the application as required by MPEP § 708.02(a).

For the above-stated reasons, the petition to make special under the accelerated examination program is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

Christine Tierney

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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FEB 22 2005

OFFICE OF PETITIONS

In re Application of
Eunice Emmerantia Herholdt
Application No. 10/920,792
Filed: November 22, 2004
Attorney Docket No. 087399-000000US

: DECISION DISMISSING PETITION

This is a decision on the filing date petition, filed November 22, 2004, under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 17, 2004.

The application was deposited on August 17, 2004 without drawings.[1] Accordingly, on October 15, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, on November 22, 2004, petitioner timely responded with 7 sheets of drawings and color photographs. Petitioner argues that the application as filed without drawings is entitled to a filing date of August 17, 2004 because pursuant to 35 U.S.C. 113, drawings are not necessary for an understanding of the subject matter sought to be patented.

Petitioner's arguments are well taken but are not persuasive. The instant application is a plant application, not a utility application. A plant application must have a drawing. See the patent rules for plant applications 37 CFR 1.161-1.167. However, as opposed to the the language required for a claim in a utility application, which allows for the treatment of an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence)[2], a plant application (37 CFR 1.164) is similar to

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

[2] MPEP 601.01(f).

that for a design application and according to MPEP 601.01(f), in response to a Notice of Incomplete, petitioner's options are to: (1) promptly file a petition under 37 CFR 1.53(e) with the petition fee set forth in 37 CFR 1.17(h), asserting that the missing drawing(s) was submitted; or (2) promptly submit drawing(s) accompanied by an oath or declaration in compliance with 37 CFR 1.63 and 37 CFR 1.64 and accept the date of such submission as the application filing date. 37 CFR 1.153(a) provides that the claim in a design application "shall be in formal terms to the ornamental design for the article (specifying name) as shown, or as shown and described." As such, petitions under 37 CFR 1.53(e) asserting that drawings are unnecessary under 35 U.S.C. 113 (first sentence) for a filing date in a design or plant application will not be found persuasive.

In view thereof, petitioner's request that the application be accorded a filing date of August 17, 2004, and the request for a refund of the petition fee must be **DISMSSED**. However, the application is being accorded a filing date of November 22, 2004, the date the drawings and color photographs were received in the office.

This matter is being referred to the Office of Initial Patent Examination for further processing with a filing date of November 22, 2004, using the application papers received in the Office on August 17, 2004 and the color photographs, submitted on November 22, 2004.

Telephone inquiries specific to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Anne Lindsay Hall	: DECISION ON REQUEST FOR
Patent Number	: 7583828	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/920,813	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **948** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
David A. Dinsmoor, et al.	:	
Application No. 10/920,818	:	DECISION GRANTING PETITION
Filed: August 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P-11220.00	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 11, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 18, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3762 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: David A. Dinsmoor	: DECISION ON REQUEST FOR
Patent Number	: 7571008	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/920,818	: OF WYETH
Filed	: 08/17/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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caj

Mailed: 9-29-06

In re Application of
Paul Taichiang Yu et al.
Serial No. 10/920,838
Filed: August 18, 2004
For: PROCEDURES FOR SHUTTING DOWN FUEL CELL SYSTEM BY USING AIR PURGE AT LOW CELL TEMPERATURE

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed June 7, 2006 and made final in the office action mailed July 12, 2006.

On June 7, 2006, a two way restriction requirement was made by the examiner. The examiner took the position that the groupings of claims were related as product and process of use. Applicants traversed the restriction requirement in a response filed June 19, 2006. The examiner repeated the restriction requirement in an office action mailed July 12, 2006 and made the restriction requirement final. Claims 1-8 were withdrawn from consideration as being drawn to a non-elected invention.

On August 28, 2006, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Applicant's request withdrawal of the restriction requirement because a proper search for the invention of dependent claim 2 (Group I) would necessarily include a proper search of the invention of independent claim 9 (Group II) and that the examiner has not shown that the separate groups are distinct.

DECISION

Sections 803 and 806.05(h) of the MPEP state:

803 Restriction — When Proper
Under the statute, the claims of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 802.01, § 806.06, and § 808.01) or distinct (MPEP § 806.05 - § 806.05(j)).

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.

806.05(h) Product and Process of Using
A product and a process of using the product can be shown to be distinct inventions if either or both of the following can be shown: (A) the process of using as claimed can be practiced with another materially different product; or (B) the product as claimed can be used in a materially different process.

Petitioner argues that the restriction requirement should be withdrawn because search and examination of both groups can be conducted without serious burden. This argument is not persuasive. In making the restriction final, the examiner states that a search of the non-elected claims would require searches that are not required for the claims of Group I. Additionally, in the original requirement, the examiner has pointed out that each group is classified in different class and subclasses. The position of the examiner is reasonable. While a search of the two groups of claims would be overlapping, additional searching would be required for the non-elected group. Such a search would be a serious burden on the examiner in that the examiner would have to search prior art methods that would not have anything to do with the instantly claimed apparatus.

Petitioner further argues that the inventions of the two groups are not distinct. However, the inventions can be shown to be distinct if either the product as claimed can be used in a materially different process of use or if the process as claimed can be practiced with another materially different process. As set forth by the examiner, the process can be conducted with another fuel cell system without a purge valve. Additionally, the fuel cell system itself may be used in a materially different process of use, such as producing electricity. Thus, the inventions can be shown to be distinct as claimed.

Accordingly, the restriction requirement is proper and the petition to withdraw the restriction requirement is **DENIED**.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

GENERAL MOTORS CORPORATION
300 RENAISSANCE CENTER
P.O. BOX 300
DETROIT, MI 48265-3000

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/920,841	08/18/2004	2132	824	A-10127	7	23	2

CONFIRMATION NO. 8338

CORRECTED FILING RECEIPT

OC000000016847959

05642
SCIENTIFIC-ATLANTA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
5030 SUGARLOAF PARKWAY
LAWRENCEVILLE, GA 30044

Date Mailed: 08/24/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Anthony J. Wasilewski, Alpharetta, GA;

Power of Attorney:

Kenneth Massaroni–33015
Hubert Barnhardt III–36739
William Lafferty–39259
John West–46279
Shelley Couturier–47503

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 10/19/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/920,841

Projected Publication Date: 02/23/2006

Non-Publication Request: No

Early Publication Request: No

Title

Retrieval and transfer of encrypted hard drive content from DVR set-top box utilizing second DVR set-top box

Preliminary Class

380

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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SCIENTIFIC-ATLANTA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
5030 SUGARLOAF PARKWAY
LAWRENCEVILLE, GA 30044

Mail Date: 04/20/2010

Applicant	: Anthony J. Wasilewski	: DECISION ON REQUEST FOR
Patent Number	: 7602913	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/920,841	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1254** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SCIENTIFIC-ATLANTA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
5030 SUGARLOAF PARKWAY
LAWRENCEVILLE, GA 30044

Mail Date: 04/20/2010

Applicant	: Anthony J. Wasilewski	: DECISION ON REQUEST FOR
Patent Number	: 7602914	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/920,842	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1423** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas TX 75219

MAILED

MAR 23 2009

OFFICE OF PETITIONS

In re Application of
Bharatia et al.
Application No. 10/920, 850
Filed: August 18, 2004
Attorney Docket No. 22171.396

DECISION ON PETITION

This is a decision on the petition, filed March 13, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the non- final Office action mailed April 2, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 28, 2008.

Petitioner asserts that the Office action dated April 2, 2008 was not received. Petitioner has provided an individual docket report for the above application and statements from James McKnight and Julie Curtis.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket

and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements. Item (3) has not been satisfied.

As to item (3), a review of the docket records shows that petitioner has failed to provide master docket records for the firm. Nor has petitioner stated that a master docket does not exist. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP 711.03(c). Petitioner has provided an incoming mail log. Petitioner references an electronic docket system, however no evidence/ copies have been provided.

Accordingly, absent the required evidence to establish nonreceipt of the non-final Office action of April 2, 2008, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1620.00 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas TX 75219

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MAY 22 2009

OFFICE OF PETITIONS

In re Application of :
Bharatia et al. :
Application No. 10/920,850 : DECISION ON PETITION
Filed: August 18, 2004 :
Attorney Docket No. 22171.396 :

This is a decision on the renewed petition, filed April 2, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed April 2, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 28, 2008.

Petitioner asserts that the Office action dated April 2, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived

> Office action must be submitted as documentary proof of nonreceipt of the Office action. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2441 for re-mailing the Office action of April 2, 2008. The period for reply will run from the mailing date of the Office action.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 12/12/06

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/920860 Patent No.: 6998053B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Wanda L Walker
SPE

1723
Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,998,053 B2

APPLICATION NO.: 10/920,860

ISSUE DATE: : February 14, 2006

INVENTOR(S) : Leon Awerbuch

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Col. 13
Line 63: Insert "and" after --feed;--.

Col. 14
Line 46: "claim 1" should read --claim 2--.

Col. 15
Line 14: "harness" should read --hardness-- .

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Andrew Fessak
White & Case LLP
1155 Avenue of the Americas
New York, New York 10036

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

American LegalNet, Inc.
www.USCourtForms.com

NOV 27 2006

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www.uspto.gov

MADAN, MOSSMAN & SRIRAM
2603 AUGUSTA
SUITE 700
HOUSTON TX 77057

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OFFICE OF PETITIONS

In re Application of	:	
Andreas Peter	:	
Application No. 10/920,863	:	ON PETITION
Filed: August 18, 2004	:	
Attorney Docket No. 414-38625-US	:	

This is a decision on the petition, filed February 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 30, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2855 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : February 10, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Andreas Petr
Application No. :10/920,863
Filed :August 18, 2004

The above-identified application has been assigned Patent No. 6,997,063 and an issue date of February 14, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 14, 2006:

"All reference to Patent No. 6,997,063 to Andreas Peter of Germany for APPARATUS AND METHODS FOR ABRASIVE FLUID FLOW METER appearing in the Official Gazette of February 14, 2006, should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 17 2009
OFFICE OF PETITIONS

Kunzler & McKenzie
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

In re Application of	:	
Reginald Beer, et al.	:	
Application No. 10/920,864	:	DECISION ON PETITION
Filed: August 18, 2004	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. GB920030056US1	:	

This is a decision on the petition under 37 CFR 1.55(c), filed March 30, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign United Kingdom Application No. 0320388.2, filed August 20, 2003.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14. It is noted that petitioner indicates a supplemental oath is being filed, but none was found.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

By internet: EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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KUNZLER & MCKENZIE
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SALT LAKE CITY UT 84111

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AUG 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Reginald Beer, et al.	:	
Application No. 10/920,864	:	DECISION GRANTING PETITION
Filed: August 18, 2004	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. GB920030056US1	:	

This is a decision on the renewed petition under 37 CFR 1.55(c), filed July 17, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign United Kingdom Application No. 0320388.2, filed August 30, 2003.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

This application is being referred to Technology Center AU 2113 for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3204 .

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/920,864	08/18/2004	2113	1474	GB920030056US1	40	7

CONFIRMATION NO. 8833

CORRECTED FILING RECEIPT

45216
Kunzler & McKenzie
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

OC000000037324484

Date Mailed: 08/12/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Reginald Beer, Eastleigh, UNITED KINGDOM;
Peter John Deacon, Wimbourne, UNITED KINGDOM;
Hamish Birrell Williamson Halley, Petersfield, UNITED KINGDOM;

Power of Attorney: The patent practitioners associated with Customer Number 45216

Domestic Priority data as claimed by applicant

Foreign Applications
UNITED KINGDOM 0320388.2 08/30/2003

If Required, Foreign Filing License Granted: 10/19/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/920,864**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND APPARATUS FOR IMPROVED ERROR AVOIDANCE IN A REDUNDANT DATA PATH SYSTEM

Preliminary Class

714

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MAILED

AUG 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Beer et al.	:	DECISION
Application No. 10/920,864	:	AMENDING INVENTORSHIP
Filed: August 18, 2004	:	
Attorney Docket No. GB920030056US1	:	

This is a decision on the petition filed March 30, 2009, which is being treated as a petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.64 that a non-signing original inventor re-execute the supplemental declaration.

The petition is **dismissed as moot**.

Petitioner requests the acceptance of a substitute declaration that is not signed by all of the inventors. The petition indicates that the substitute declaration is filed in response to the Examiner's requirement in the Office action of August 12, 2008. However, that Office action did not require a new declaration but suggested the filing of a new oath, declaration or application data sheet (ADS) in support of a claim for priority. Moreover, a substitute declaration was never filed in the present application, but an ADS was filed July 17, 2009 in support of a delayed claim for foreign priority. This matter was addressed in regard to the petition to accept delayed claim for foreign priority filed March 30, 2009 and renewed July 17, 2009. Accordingly, further consideration of petitioners requested waiver is not necessary.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 17, 2007

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/920866 Patent No.: 7063882 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

MILTON I. CANO
SUPERVISORY PATENT EXAMINER
SPE

1774
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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J. JASON LINK
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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APR 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Thomas C. **Wagner** et al. :
Application No. 10/920,870 : DECISION ON PETITION
Filed: August 18, 2004 :
Attorney Docket No.
1877A1 (32961/302936)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the final Office Action mailed June 20, 2007, which set a shortened statutory period for reply of three (3) months. Three month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on December 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, Request for Continued Examination (RCE), and the $.810.00 filing fee; (2) the petition fee of $1,540.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of June 20, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Thuy Pardo at (571) 272-6052 or in her absence, the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 1795 for appropriate action by the Examiner in the normal course of business on the reply received

for David A. Bucci
Petitions Examiner
Office of Petitions

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MAY 10 2005

CONLEY ROSE, P.C.
P.O. BOX 3267
HOUSTON, TX 77253-3267

In re application of Michael S. Oliver et al. Application No. 10/920,875 Filed: August 18, 2004 For: LUBRICANT PUMP AND CONE MOVEMENT DAMPENER	: : : : : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on November 22, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED** .

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Oliver indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED** .

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/dew: 05/02/05

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Commissioner for Patents
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BROOKS KUSHMAN P.C./LEAR CORPORATION
1000 TOWN CENTER
22ND FLOOR
SOUTHFIELD, MI 48075-1238

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of	:
Mohammad Saberan	:
Application No. 10/920,892	: DECISION GRANTING PETITION
Filed: August 18, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. LEAR 05098 PUS	:

This is a decision on the petition, filed January 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3636 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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SCIENTIFIC-ATLANTA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
5030 SUGARLOAF PARKWAY
LAWRENCEVILLE, GA 30044

Mail Date: 06/07/2010

Applicant	: Anthony J. Wasilewski	: DECISION ON REQUEST FOR
Patent Number	: 7630499	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/920,926	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1246** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/920,929	08/18/2004	3641	860	R087 1279.1	3	25	3

CONFIRMATION NO. 9271

CORRECTED FILING RECEIPT

OC000000015189580

26158
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
P.O. BOX 7037
ATLANTA, GA 30357-0037

Date Mailed: 02/15/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Michael D. Keeney, Rineyville, KY;
Marlin R. Jiranek II, Elizabethtown, KY;

Assignment For Published Patent Application

RA Brands, L.L.C.

Power of Attorney: The patent practitioners associated with Customer Number **26158**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/498,567 08/28/2003
and claims benefit of 60/501,884 09/10/2003

Foreign Applications

If Required, Foreign Filing License Granted: 02/15/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/920,929

Projected Publication Date: 05/26/2005

Non-Publication Request: No

Early Publication Request: No

Title

Modular barrel assembly

Preliminary Class

042

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/920,930	08/17/2004	William M. French	200401401	9270

7590 04/18/2008
HEWLETT-PACKARD DEVELOPMENT COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER
MILIA, MARK R

ART UNIT	PAPER NUMBER
2625	

MAIL DATE	DELIVERY MODE
04/18/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/21/2008 DTERRY
04/23/2008 STEUMEL1 00000060 082025 10920930
02 FC:1202 180.00 CR
03 FC:1201 86.00 CR

FORM PET651G (Rev. 08/07)

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STRIKER, STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

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SEP 01 2005

OFFICE OF PETITIONS

In re Application of :
Dietmar Wennemann et al :
Application No. 10/920,944 : ON PETITION
Filed: August 18, 2004 :
Attorney Docket No. 3076 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The Notice To File Missing Parts Of Nonprovisional Application of October 14, 2004, also required Replacement drawings.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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HUNTINGTON, NY 11743

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FEB 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Dietmar Wennemann et al	:	
Application No. 10/920,944	:	DECISION GRANTING PETITION
Filed: August 18, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 3076	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 16, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Nonprovisional Application mailed October 14, 2004, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 15, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

16869 W-127000 US
RCC, PA

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Response Due 11/30/05

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

SEP 30 2005

Technology Center 2100

In re Application of: MIKI
Application No. 10/920,974
Filed: August 18, 2004
For: VOLUME PROVIDING SYSTEM AND METHOD

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 22 August 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

VMK

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 22 August 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. Some of the limitations purporting to distinguish independent claims 9 and 10 from each reference do not appear to be in these claims. For example, claim 9 does not appear to require a "volume filter program/means or method". Claim 10 does not require "volume interface program/means that provides an interface for logical volumes to the target program" (emphasis added) nor does it require "provid[ing] the selected logical volume to the target program via the volume interface program" (emphasis added).

Additionally, it is suggested that if the identical statement is being made to distinguish each reference from an independent claim, as in the instant petition, then the statement should simply be made once in the petition. (E.g., "Regarding independent claim 1, none of the references disclose . . . .")

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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Chun-Pok Leung
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

MAILED

DEC 1 5 2005

Technology Center 2100

In re Application of:
Kenichi MIKI
Application No. 10/920,974
Filed: August 18, 2004
For: VOLUME PROVIDING SYSTEM AND METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on November 03, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of November 03, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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THOMAS J. FINN, ESQ.
RAYTHEON COMPANY, EO/E4/N119
2000 E. El Segundo Blvd.
P.O. Box 902
El Segundo, CA 90245-0902

Mail Date: 04/21/2010

Applicant	: Quenten E. Duden	: DECISION ON REQUEST FOR
Patent Number	: 7578482	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/920,976	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **689** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WHITTIER CA 90602

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AUG 21 2007

OFFICE OF PETITIONS

In re Application of :
Van Druff et al. : DECISION ON PETITION
Application No. 10/920983 :
Filing Date: 08/19/2004 :
Attorney Docket Number: 134/159 :

This is a decision on the petition, filed on 18 June, 2007, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 11 April, 2005. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 29 November, 2007, is enclosed herewith.

The application is being referred to Technology Center Art Unit 3636 for further processing.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/920,983	08/19/2004	Charles E. Van Druff	134/159

CONFIRMATION NO. 8299

27612
AVERILL & VARN
8244 PAINTER AVE.
WHITTIER, CA 90602

Date Mailed: 08/21/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/29/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/920,983	08/19/2004	Charles E. Van Druff	134/159

CONFIRMATION NO. 8299

27612
AVERILL & VARN
8244 PAINTER AVE.
WHITTIER, CA 90602

Date Mailed: 08/21/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/29/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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20070928

Carlton H. Hoel
Texas Instruments Incorporated
P.O. Box 655474. M/S 3999
Dallas, Texas 75265

MAILED FROM
DIRECTORS OFFICE
OCT 1 - 2007
TECHNOLOGY CENTER 2800

In re Application of Binan Wang :
Application no. 10/921,001 : DECISION ON PETITION
Filed: 18 August 2004 :
Attorney Docket No. TI-37355 :

This is a decision on the petition filed March 27, 2007, under 37 C.F.R. 1.181(a)(3). The petition requests invocation of the supervisory authority of the Director to hold the final rejection by the Examiner mailed 2/26/07 to be premature. The petition is before the Director of Technology Center 2800 for review.

The petition has been dismissed as moot.

The petition asserts that the Office action of February 26, 2007 was prematurely made final and the finality should be withdrawn.

Subsequent to the filing of the instant petition, a Notice of Appeal was filed in response to the final Office action and an appeal brief was submitted on July 30, 2007. The application file has been reviewed and the appeal will proceed. An examiner's answer will be issued in due course.

In view of the filings of the Notice of Appeal and Appeal Brief, the petition is hereby dismissed since the relief requested is now moot.

An examiner's will be issued in due course.

Any inquiries regarding this decision should be directed to N. Drew Richards, Supervisory Patent Examiner, at (571) 272-1736.

Robert J. Oberleitner, Director
Technology Center 2800 – Semiconductors, Electrical and
Optical Systems and Components

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/921,023	08/18/04	Liu	36119.151US

CONFIRMATION NO. 3814

Wilmer Cutler Pickering Hale and Dorr LLP

60 State Stret

Boston, MA 02109

Date Mailed: April 7, 2005

Letter Regarding Petition Under 37 CFR 1.182 Filed With Replacement Drawings

The petition under 37 CFR 1.182 filed November 15, 2004 is acknowledged.

The procedure for submitting replacement drawings by filing a petition under 37 CFR 1.182 and a petition fee has been eliminated. Mail Stop PGPUB Drawings has also been eliminated. The Office may include any replacement drawings filed in compliance with 37 CFR 1.84 and 1.121(d) in the patent application publication if the replacement drawings are entered into the Office file wrapper of the application before technical preparations for publication of the application have begun (generally four months prior to the projected publication date.) See *Changes To Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan*, Final Rule, 68 *Fed. Reg.* 56481, 56514-56525 (Sept. 21, 2004).

Accordingly, the replacement drawings filed with the petition under 37 CFR 1.182 may be included in the patent application publication if the drawings are in compliance with 37 CFR 1.84 and 1.121(d) and if they are entered into the Office file wrapper of the application before technical preparations for publication of the application have begun.

If a petition fee or processing fee was submitted with the replacement drawings, then the fee has been refunded.

Telephone inquiries regarding this letter should be directed to the Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Kalethia King
Pre Grant Publication

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APR 13 2007

OFFICE OF PETITIONS

DECHERT LLP
P.O. BOX 10004
PALO ALTO, CA 94303

In re Application of	:	
Thomas B. Ottoboni, et al.	:	
Application No. 10/921,025	:	DECISION ON PETITION
Filed: August 17, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 375430-005T1C1	:	

This is a decision in response to the petition under 37 CFR 1.78(a)(3), filed August 23, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the Application Data Sheet filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). In order for this application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3768 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/921,025	08/17/2004	3768	647	375430-005T1C1	27	2

CONFIRMATION NO. 8425
CORRECTED FILING RECEIPT
OC000000023289934
OC000000023289934

37509
DECHERT LLP
P.O. BOX 10004
PALO ALTO, CA 94303

Date Mailed: 04/09/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Thomas B. Ottoboni, Belmont, CA;
E. Glenn Tickner, Watsonville, CA;
Robert E. Short, Los Gatos, CA;
Ronald K. Yamamoto, San Francisco, CA;

Power of Attorney: The patent practitioners associated with Customer Number **37509**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/225,252 08/20/2002 PAT 6,776,761
which is a CIP of 09/638,167 08/11/2000 ABN
which claims benefit of 60/148,947 08/13/1999

Foreign Applications

If Required, Foreign Filing License Granted: 10/12/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/921,025

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Hollow microspheres with controlled fragility for medical use

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of

technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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BUCHALTER NEMER
18400 VON KARMAN AVE
SUITE 800
IRVINE CA 92612

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DEC 26 2007

OFFICE OF PETITIONS

In re Application of Frink, et al. Application No. 10/921,029 Filed: August 17, 2004 Attorney Docket No. 2005-IP-018415U1	: : : : :	ON PETITION

This is a decision on the "PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT AND REVIVE THE APPLICATION UNDER 37 CFR 1.137 FOR NON-RECEIPT OF THE OFFICE ACTION DATED JULY 31, 2006", filed August 13, 2007, which is being treated as a petition under 37 CFR 1.181, or in the alternative under 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above application became abandoned for failure to file a reply to the non-final Office action mailed July 31, 2006. The Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on November 1, 2006. The Office mailed a Notice of Abandonment on March 9, 2007.

Petition to Withdraw the Holding of Abandonment under 1.181:

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

Here, the docket record submitted on petition is only a summary of the prosecution history for the instant application. As set forth above, to establish that the July 31, 2006 Office action was not received, petitioner would needed to have submitted a docket record showing all of his replies docketed for the due date of October 31, 2006.

Petition to Revive under 1.137(b):

With the instant petition, applicants paid the petition fee, submitted the required reply in the form of an Amendment, and made a statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3). The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The matter is being forwarded to Group Art Unit 1771 for consideration of the Amendment filed August 13, 2007.

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/921,039	08/18/2004	1722	770	W0425.70011US01	14	7	1

CONFIRMATION NO. 8681

CORRECTED FILING RECEIPT

OC000000015134726

William R. McClellan
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

Date Mailed: 02/09/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kiyoshi Matsuki, Hyogo, JAPAN;
Masahiro Chikada, Osaka, JAPAN;
Yoriki Kakimoto, Osaka, JAPAN;

Assignment For Published Patent Application

Kaneka Corporation, Osaka-Shi, JAPAN

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 10/329,583 12/26/2002 ABN
which is a DIV of 09/736,517 12/13/2000 ABN

Foreign Applications

JAPAN 2000-090279 03/29/2000
JAPAN 2000-090330 03/29/2000

If Required, Foreign Filing License Granted: 10/21/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/921,039

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Producing method of a composite molded article as well as inner mold and metal mold being used for producing cellular molded article in mold pattern having surface skin

Preliminary Class

425

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MARK BARRISH
TOWNSEND AND TOWNSEND AND CREW
379 LYTTON AVE
PALO ALTO, CA 94301

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SEP 0 5 2006
OFFICE OF PETITIONS

In re Application of	:	
Dan Sanchez, et al.	:	
Application No. 10/921,061	:	DECISION ON REQUEST
Filed: August 18, 2004	:	TO WITHDRAW
Attorney Docket No. 022001-002210US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed July 11, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Mark D. Barrish and all the other attorneys/agents associated with Customer Number 20350 was revoked by the assignee of the patent application on June 6, 2005. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: PATENT DEPT
INTUITIVE SURGICAL, INC
1266 KIFER RD
BUILDING 101
SUNNYVALE CA 94086

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/10/08

TO SPE OF : ART UNIT 3725

SUBJECT : Request for Certificate of Correction on Patent No.: 7337715

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

SPE _____ Art Unit _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080825

DATE : June 10, 2008

TO SPE OF : ART UNIT 3725

SUBJECT : Request for Certificate of Correction on Patent No.: 7337715

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

Changes to inventorship is appropriate.

/DERRIS H BANKS/
Supervisory Patent Examiner.Art Unit 3725

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MAY 25 2005
OFFICE OF PETITIONS

In re Application of	:
Roberts, Harrison, George, and	: DECISION REFUSING STATUS
de Jong	: UNDER 37 CFR 1.47(a)
Application No. 10/921,079	:
Filed: 18 August, 2004	:
Atty Docket No. 1578.630	:

This is in response to the petition under 37 CFR 1.47(a) filed on 19 April, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 18 August, 2004, without an executed oath or declaration. Accordingly, on 13 September, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring the statutory basic filing fee, an executed oath or declaration and a surcharge for their late filing. A two (2) month period for reply was set.

In response, on 19 April, 2005 (certificate of mailing date 13 April, 2005), a petition under 37 CFR 1.47(a), the statutory

basic filing fee, late filing surcharge, and a one (1) month extension of time and fee were filed. A declaration naming Gideon Roberts, Robert Harrison, Richard George, and Gjalt Gerrit de Jong as joint inventors and signed by all inventors except de Jong on behalf of themselves and non-signing joint inventor de Jong were also filed.

Petitioners assert that joint inventor de Jong has refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

In regards to item (1), petitioners have not shown that joint inventor de Jong was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] While the petition states that "upon information and belief" each of the inventors was provided with a copy of the application papers, it is not clear whether this statement was made by a person with first-hand knowledge that the application papers were sent or given to the non-signing inventor.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

---

[1] MPEP 409.03(d).

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

The petition fee of $200.00 will be charged to counsel's deposit account, No. 50-2032, as authorized on the transmittal letter filed with the present petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUL 0 5 2005

OFFICE OF PETITIONS

In re Application of	:
Roberts et al.	: DECISION NOTING JOINDER OF
Application No. 10/921,079	: INVENTOR AND PETITION
Filed: 18 August, 2004	: UNDER 37 CFR 1.47(a) MOOT
Atty Dckt No. 1578.630	:

Papers filed on 13 June, 2005, in response to the decision dismissing petition mailed on 25 May, 2005, included a Declaration signed by the previously non-signing inventor, Gjalt Gerrit de Jong, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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ANTHONY R. BARKUME
20 GATEWAY LANE
MANORVILLE, NY 11949

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In re Application of	:	
Richard Postrel	:	
Application No. 10/921,085	:	DECISION ON PETITION
Filed: August 18, 2004	:	
Attorney Docket No. 700-148L	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 2, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 3, 2008. A Notice of Abandonment was mailed February 7, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation, (2) the petition fee of $770.00, and (3) an adequate statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 12/105,751, filed April 18, 2008.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

Liana Walsh
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/921,086	08/18/2004	1632	1416	C1039.70020US01	19	28	7

CONFIRMATION NO. 8555

CORRECTED FILING RECEIPT

OC000000014437654

Helen C. Lockhart
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

Date Mailed: 11/23/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Arthur M. Krieg, Iowa City, IA;
Joel N. Kline, Iowa City, IA;

Assignment For Published Patent Application

The University of Iowa Research Foundation, Iowa City, IA

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 09/337,584 06/21/1999
which is a DIV of 08/960,774 10/30/1997 PAT 6,239,116
which is a CIP of 08/738,652 10/30/1996 PAT 6,207,646
which is a CIP of 08/386,063 02/07/1995 PAT 6,194,388
which is a CIP of 08/276,358 07/15/1994 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 11/23/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/921,086

Projected Publication Date: 03/03/2005

Non-Publication Request: No

Early Publication Request: No

Title

Immunostimulatory nucleic acid molecules

Preliminary Class

514

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Boston MA 02210

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MAR 21 2006
OFFICE OF PETITIONS

Applicant: Krieg et al.
Appl. No.: 10/921,086
Filing Date: August 8, 2004
Title: IMMUNOSTIMULATORY NUCLEIC ACID MOLECULES
Attorney Docket No.: C1039.7002US01
Pub. No.: US 2005/0101557 A1
Pub. Date: May 12, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 23, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors, as the phrase "wherein at least one internucleotide" is misprinted as "wherein at least one intemucleotide" in claims 42 and 68.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors noted by requestor in the phrase "wherein at least one internucleotide" is misprinted as "wherein at least one intemucleotide" in claims 42 and 68 are not a material Office errors under 37 CFR 1.221. The errors noted by requestor with respect to the typographical errors in claims 42 and 68 are due to the quality of the text in the application. The letters "r" and "n" in the word "internucleotide" are so close together that they appears to be and "m".

Applicants have been advised to file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

publication process. See 37 CFR 1.52. When the text in the application is small and/or close together, it is made blurry and not clear, which also makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

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600 ATLANTIC AVENUE
BOSTON MA 02210

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Krieg et al.	:	
Application No. 10/921,086	:	LETTER REGARDING
Filed: August 18, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
C1039.70020US01	:	

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed on September 2, 2008. Applicants request that the patent term adjustment be reviewed for accuracy.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is four hundred thirty-one (431) days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is 431 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 3, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is four hundred four-two (442) days. This was based on an Office delay of 538 days and an applicant delay of 96 days.

Applicants request that the patent term adjustment determination be reviewed in view of the filing of an Information Disclosure Statement (IDS) filed on March 3, 2008.

Applicants' argument is well taken.

37 CFR 1.704(c)(8) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to

conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

On February 21, 2008, an amendment in reply to the Office action mailed on August 17, 2007, was filed. On March 3, 2008, 11 days after the filing of the amendment filed on February 21, 2008, an IDS was filed. The IDS did not include a statement in accordance with 37 CFR 1.704(d). Further, the IDS was not expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8).

Accordingly, the IDS filed on March 3, 2008 is considered a failure to engage in reasonable efforts to conclude processing or examination of an application. The patent term adjustment will therefore be reduced by eleven (11) days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **four hundred thirty-one (431) days** (538 days of PTO delay, reduced by 107 (96+11) day of Applicant delay).

As the instant letter was submitted to advise the Office of an error in Applicant's favor, the $200.00 application fee under 37 CFR 1.705(b) was not required, and has not been charged.

The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the

patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Monday
Date: 3/23/2009

PALM INTRANET

Time: 20:13:03

PTA Calculations for Application: 10/921086			
Application Filing Date:	08/18/2004	PTO Delay (PTO):	538
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	96
Post-Issue Petitions:	0	Total PTA (days):	431
PTO Delay Adjustment:	-11		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
69	03/23/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		11	
55	06/03/2008	MAIL NOTICE OF ALLOWANCE			
54	05/27/2008	ISSUE REVISION COMPLETED			
53	05/27/2008	DOCUMENT VERIFICATION			
52	05/27/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	05/23/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
50	05/27/2008	EXAMINER'S AMENDMENT COMMUNICATION			
49	05/27/2008	NOTICE OF ALLOWABILITY			
45	02/15/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	03/03/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	03/24/2008	DATE FORWARDED TO EXAMINER			
42	02/21/2008	RESPONSE AFTER NON-FINAL ACTION		96	36
41	02/21/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
40	02/15/2008	REFERENCE CAPTURE ON IDS			
39	02/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	03/03/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	02/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	08/17/2007	MAIL NON-FINAL REJECTION			
35	08/02/2007	NON-FINAL REJECTION			
34	12/01/2004	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
33	06/23/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	09/26/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	09/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	05/23/2007	DATE FORWARDED TO EXAMINER			
29	05/10/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
28	04/09/2007	MAIL RESTRICTION REQUIREMENT	538		-1
27	04/02/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
26	03/21/2006	MAIL-PETITION DECISION - DISMISSED			
24	06/23/2005	PETITION ENTERED			
23	06/23/2005	REFERENCE CAPTURE ON IDS			
22.7	06/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	06/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	12/01/2004	REFERENCE CAPTURE ON IDS			
20	04/07/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	08/18/2004	PRELIMINARY AMENDMENT			
18	04/07/2005	CASE DOCKETED TO EXAMINER IN GAU			
17.7	12/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	12/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	08/18/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
15	11/19/2004	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
14	11/02/2004	APPLICATION RETURN FROM OIPE			
13	11/02/2004	APPLICATION RETURN TO OIPE			
12	11/02/2004	APPLICATION DISPATCHED FROM OIPE			
11	11/02/2004	APPLICATION IS NOW COMPLETE			
10	10/18/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	10/08/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
8	10/07/2004	AGENCY REFERRAL LETTER MAILED			

7	09/30/2004	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
6	09/27/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
5	09/27/2004	CASE CLASSIFIED BY OIPE			
4	09/09/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	08/25/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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In re Patent No. 7,524,828	:	
Krieg et al.	:	DECISION ON
Issue Date: April 28, 2009	:	REQUEST FOR
Application No. 10/921,086	:	RECONSIDERATION OF
Filed: August 18, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
C1039.70020US01	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed on June 25, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred forty-seven (547) days to one thousand fifty (1050) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 547 days.

BACKGROUND

On April 28, 2009, the application matured into U.S. Patent No. 7,524,828, with a revised patent term adjustment of 547 days. The Office determined that the 619 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 654 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (a)(4) accorded prior to the issuance of the application. As such, 0 additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 107 days, the patent issued with a revised patent term adjustment of 547 days.

On June 25, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term

Adjustment is 1050 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the 116 day period accorded pursuant to 37 CFR 1.702(a)(4) overlaps with the period under § 1.702(b). Patentee asserts that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1157 (654 + 619 - 116 overlap) days as these periods do not occur on the same day. Further, given the applicant delay of 107 days, patentee asserts entitlement to 1050 (1157 - 107) days of patent term adjustment.

OPINION

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C.

> 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), August 18, 2004, and ending on the date of issuance of the patent, April 28, 2009

(not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (a)(4), 654 (538 + 116) days of patent term adjustment were accorded during the pendency of the application. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 619 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 619 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 654 days of patent term adjustment under 37 CFR 1.702(a)(1) and (a)(4). Entry of both the 654 days and the 619 days is neither permitted nor warranted. 654 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 0 days of adjustment pursuant to 37 CFR 1.702(b) for the Office taking in excess of three years to issue the patent.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 547 days (654 days of Office delay - 107 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Nancy Johnson

Anthony Knight
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Robert D. Harned, et al. :
Application No. 10/921,097 : ON PETITION
Filed: August 19, 2004 :
Attorney Docket No. 1857.1960001/DJF/GSB :

This is in response to the petition under 37 CFR 1.47(a), filed December 2, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being referred to the Office of Initial Patent Examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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WASHINGTON DC 20005

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APR 2 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert D. **HARNED et al.**	:	
Application No. 10/921,097	:	DECISION GRANTING PETITION
Filed: August 19, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1857.1960001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 17, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 23, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

In re Application of :
Danishefsky, et al. :
Application No. 10/921,109 :
Filed: August 18, 2004 :
Attorney Docket No. **2003080-01645** :

DECISION GRANTING PETITION

This is a decision on the petition filed September 17, 2004, under 37 CFR 1.10 requesting that the above-cited application be accorded a filing date of August 18, 2004.

Petitioner alleges that the application was deposited with the Express Mail Service on August 18, 2004. In support of the allegation, the petition is accompanied by a copy of the Express Mail postcard with a tracking number EV235259198US showing a "date-in" of August 18, 2004. The tracking number cited is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on August 18, 2004.

In view of the above, the petition is granted. The new filing date for the above-cited application is August 18, 2004.

The Office of Initial Patent Examination will further process the application with a filing date of August 18, 2004, and issue a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Yuji ENOMOTO et al. :
Application No. 10/921,115 : ON PETITION
Filed: August 19, 2004 :
Attorney Docket No. 056207.55258US :

This is a decision on the petitions, filed March 20, 2007, under 37 CFR 1.59 requesting expungement of material in the specification to move a portion of the text in the specification, under 37 CFR 1.183 seeking waiver of the rules to permit movement of a portion of the text in the specification, and under 37 CFR 1.181 requesting the Director exercise his supervisory authority to permit the movement of a portion of the text in the specification.

The petition under 37 CFR 1.59 is **DISMISSED**.

The petition under 37 CFR 1.183 is **DISMISSED**.

The petition under 37 CFR 1.181 is **DISMISSED**.

Petitioner requests movement of a portion of the text of the specification from the Description of Prior Art, where it originally existed, to the Description of the Invention.

37 CFR 1.59 states:

(a)(1) Information in an application will not be expunged, except as provided in paragraph (b) of this section or § 41.7(a) of this title.
(2)Information forming part of the original disclosure (*i.e.*, written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.
(b)An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(g) and

establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.

37 CFR 1.183 states:

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

37 CFR 1.181(a) states:

(a)Petition may be taken to the Director:
(1)From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
(2)In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and
(3)To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

MPEP 608.04(c) states:

Where the new matter is confined to amendments to the specification, review of the examiner's requirement for cancelation is by way of petition. But where the alleged new matter is introduced into or affects the claims, thus necessitating their rejection on this ground, the question becomes an appealable one, and should not be considered on petition even though that new matter has been introduced into the specification also. 37 CFR 1.181 and 37 CFR 1.191 afford the explanation of this seemingly inconsistent practice as affecting new matter in the specification.

MPEP 2129 states:

Where the specification identifies work done by another as "prior art," the subject matter so identified is treated as admitted prior art. *In re Nomiya*, 509 F.2d 566, 571, 184 USPQ 607, 611 (CCPA 1975) (holding applicant's labeling of two figures in the application drawings as "prior art" to be an admission that what was pictured was prior art relative to applicant's improvement).

With respect to the request under 37 CFR 1.59 to move a portion of the text from one portion of the specification to another, 37 CFR 1.59 only provides for the removal or expungement of information from the specification which is not information forming part of the original disclosure. As the request is not directed to the removal of information from the specification, but, is merely directed to movement of information from one portion of the specification to another, the provisions of 37 CFR 1.59 do not apply and thus, the requested relief under this rule cannot be granted.

Next, with respect to the request under 37 CFR 1.183 to waive the rules to permit the requested movement of text, petitioner has provided no basis or rule to be waived that would permit the requested relief. Additionally, it is noted that petitioners' executed a declaration which stated, *inter alia,* "I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above." Circumstances resulting from petitioners', or petitioners' counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See, In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977).

Finally, petitioner requests under 37 CFR 1.181 to have the Director exercise his supervisory authority to permit the movement of a portion of the text in the specification. Inspection of the record reveals that the examiner has made a rejection of the claims that relies upon an alleged admission against cause of the disputed subject matter in the specification. The decision as to whether there is an admission against cause or as to whether such an admission has been overcome is not a petitionable matter to be decided by the Director, but rather involves an appealable matter to be decided by the Board of Patent Appeals and Interferences. See In re Nomiya, *supra*. MPEP 2129. A further review of the record indicates that the examiner has entered an objection on the disputed subject matter. Thus, there is both a rejection and objection predicated upon the disputed subject matter. In such circumstances, the USPTO defers consideration of the petitionable question until the merits appeal has been decided. See MPEP 608.04(c).

Nevertheless, whether the original placement, or the proposed change in placement, of the disputed subject matter bears on the patentability of the claims *vel non* goes more to the merits of the invention as opposed to the formal sufficiency and propriety of the specification, this issue will not be further addressed on petition. See Boundy v. U.S. Patent & Trademark Office, 73 USPQ2d 1468 (DC Eva 2004), *appeal dismissed*, 2004 U.S. App. LEXIS 26384 (Fed. Cir. 2004). Any review of the continued rejection of which petitioner complains (and its underlying reasoning) is limited to a merits appeal as provided by 35 U.S.C. § 134, and not by way of petition. Id. It is well settled that the Director will not, on petition, usurp the functions or impinge upon the jurisdiction of the BPAI. See In re Dickerson, 299 F.2d 954, 958, 133 USPQ 39, 43

(CCPA 1962); Baylev's Restaurant v. Bailev's of Boston. Inc., 170 USPQ 43, 44 (Comm'r Pat. 1971).

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 2834 for appropriate consideration of the Request for Continued Examination filed December 26, 2006.

Brian Hearn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:
Petersen	: DECISION ON PETITION
Application No. 10/921,119	:
Filed: August 19, 2004	:
Docket No.: 630-25US	:

This is a decision on the petition to revive under 37 CFR 1.181, filed April 5, 2006.

This application was held abandoned July 22, 2005 for failure to timely submit a proper reply to the Office communication mailed June 21, 2005. Notice of Abandonment was mailed March 9, 2006.

Petitioner alleges that a response to the outstanding Office action was timely submitted on July 21, 2005.

A communication was received by the Office on July 21, 2005. This communication was matched to the serial number identified in the transmittal letter accompanying the communication, namely, serial No. 10/821,119. The communication did not timely reach the correct application (10/921,119) due to petitioner's error. As a result of this error, the application was held abandoned.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing an incorrect application number in the transmittal accompanying the correspondence. The Office elects, in this instance, to treat applicant's transposition of numbers as a correctable minor error as permitted under MPEP 502. However, applicant is reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

In view thereof, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 3600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Horst Udo Petersen :
Application No. 10/921,119 : ON PETITION
Filed: August 19, 2004 :
Attorney Docket No. 630-25US

This is a decision on the petition under 37 CFR 1.137(b), filed November 28, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file corrected drawings in a timely manner in reply to the Notice of Allowance mailed June 12, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on September 13, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the corrected drawings (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the corrected drawings are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Douglas R. Swarts, et al. :
Application No. 10/921,125 :
Filed 09 April 2002 :
Attorney Docket No.: 144005.00202 :

DECISION
ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed 31 August 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Paper (Notice) mailed 24 November 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on 25 January 2005.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of drawings, (2) the petition fee for a small entity, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of 24 November 2004 is accepted as having been unintentionally delayed.

The matter is being referred to the Office of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to Nguyen Ngoc-Ho at (571) 272-3290.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

NNH/WL:hn

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MAR 13 2008

OFFICE OF PETITIONS

In re Application of
SUNG-WOO CHUNG
Application No. 10/921,135
Filed: 08/19/2004
Attorney Docket No. 8947-000101/US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 (no fee), filed February 28, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the nonfinal Office action mailed August 21, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 31, 2008.

Petitioner asserts that the nonfinal Office action dated August 21, 2006, was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the holding of abandonment is withdrawn and the application is restored to pending status.

The Office acknowledges receipt of the amendment filed February 28, 2008, in response to the nonfinal Office action.

This application is being referred to the Technology Center AU 2183 for appropriate action in the normal course of business on the reply received with petition.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No.

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OFFICE OF PETITIONS

In re Application of	:	
Yuasa et al.	:	DECISION ON
Application No. 10/921,148	:	PETITION
Filed: August 19, 2004	:	
Attorney Docket No. 21581-00284-US2	:	

This is a decision on the "PETITION AND EVIDENCE OF DEPOSIT IN RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION FILED UNDER 37 CFR 1.53(E)" filed January 7, 2005. Applicants petition for a filing date of August 19, 2004 for the entire application, including the allegedly missing page 103.

Application papers in the above-identified application were filed on August 19, 2004. However, on November 30, 2004, the Initial Patent Examination Division mailed applicants a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicants were notified that the application papers had been accorded a filing date; however, page 103 of the specification appeared to have been omitted from the application.

In response, applicants timely filed the instant petition. Applicants contend that page 103 was filed with the rest of the application papers on August 19, 2004. In support thereof, applicants submit copies of the postcard receipts (hand-delivered). Alternatively, applicants submit that page 103 was incorporated by reference to a prior filed application. Applicants supplied a true copy of missing page 103.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date

stamped as received by hand carry in the Office of Initial Patent Examination (OIPE) on August 19, 2004; 2) it specifically identifies the items being filed, including "Specification excluding claims (113 pages)" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioner has shown that items denoted[1], including the 113 pages of Specification, were filed on August 19, 2004.

The application papers already considered received in the Office on August 19, 2004, were reviewed along with the missing page of specification submitted on petition. These papers together constitute the items described on the postcard receipt as "Specification excluding claims (113 pages)." Petitioner has shown that p. 103 of the specification was among the items present in the application on the date of deposit and should be included in the original application papers.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is subject to refund. Although authorized, the fee will not be charged to petitioner's Deposit Account.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of August 19, 2004, using the application papers received in the Office on that date and the missing page of specification, p. 103, re-supplied on petition filed January 7, 2005.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] It is noted that the postcard includes some typed text and some handwritten text. This decision does not address the persuasiveness of such a postcard, if the items denoted by handwritten text were not present in the application (i.e. 16 pages of Figures (1-17)).